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**INTERIM REPORT ON THE
ACTIVITIES
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
FROM
July 23, 1981 to December 20, 1981**

THE OFFICE OF

THE PUBLIC COMPLAINTS COMMISSIONER

157 Bloor Street, West
Toronto, Ontario
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Telephone: (416) 963-1141

November, 1982.

CA20N
AJ 716
-A56

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
18th Floor, 18 King Street East,
TORONTO, Ontario.
M5C 1C5

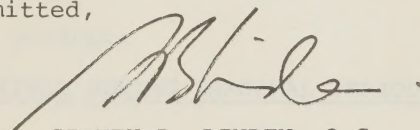
Dear Mr. Attorney:

This interim report covers the initial period of operation of my office, namely July 23, 1981, the date of my appointment, to December 21, 1981, the date that the Metropolitan Police Force Complaints Project Act, 1981, was proclaimed in force.

The report describes the organizational steps taken during this informal period and our early experience with the monitoring of complaint handling and the review of actual complaints. The period was relatively brief and the legislation was not yet formally in place so no definitive conclusions can be drawn. I believe, however, that significant progress was made and I have attempted to record it in this report.

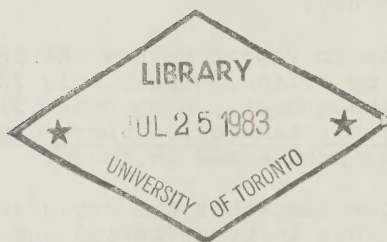
An Annual Report covering our first year of formal operation will be forthcoming next year and it will provide a more comprehensive analysis of the pilot project and the experience gained.

Respectfully submitted,



SIDNEY B. LINDEN, Q.C.
Public Complaints Commissioner.

SBL/kc



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BACKGROUND OF LEGISLATION

Why new complaints procedure
was necessary:

The procedure for dealing with complaints by citizens against members of the Metropolitan Toronto Police Force has been the object of criticism for years. Until the establishment of the project, a citizen had to make his complaint to a police officer, had no knowledge of the extent of the investigation done by the police, and was advised orally or by form letter only of the decision of the Chief of Police with respect to his complaint. Generally, the complainant was given no explanation of how the decision was reached. Civic and community leaders joined with members of the Bar, civil rights groups and many police officers in pointing out the need to change a system that was perceived to be closed and unfair. Leaders of minority groups, in particular, were concerned that their members had much to fear from police and were reluctant to make complaints to the police themselves.

Many studies were ordered and conducted over the years with a view to finding a possible solution. The Maloney Study (1975), the Morand Report (1976), the Pitman Task Force (1977) and Cardinal Carter's Report (1979), all recommended greater civilian participation in the complaints process. The then Solicitor General, R. Roy McMurtry, Q.C., introduced a new Bill

declaring the formation of a new and experimental police complaints system for Metropolitan Toronto on May 15, 1981. The new system allows complainants to make their complaints initially to a civilian agency - The Office of the Public Complaints Commissioner - and ensures that complainants are provided with regular, written investigative reports. The complainant also has an opportunity to ask for further investigation of his complaint by civilians and for a review of the whole procedure by a civilian who can order a public hearing of a complaint by a new, totally independent, civilian agency, - The Police Complaints Board.

Following second reading of the Bill on July 3, 1981, it went before the Legislature's Standing Committee on Justice for further study and amendment in the fall of 1981. Submissions by various interested parties were made at these public hearings over a period of four weeks.

Criticism of the Bill and
Response:

Throughout these hearings, the major criticism of the Bill was that the police were still involved in the investigation process. The submission of the Canadian Civil Liberties Association, presented at the Justice Committee on September 22, 1981, by A. Alan Borovoy, summarizes this criticism in the following statement:

"In our view, what it all comes down to is that a system essentially of internal investigation, even if monitored by external review, cannot adequately address the problem which has occasioned the impulse for reform, namely, the perception of bias. No matter how fair an internal investigation may be in fact, it is not likely to appear fair. From the standpoint of many members of the public, the investigation officials would continue to be vulnerable to the suspicion that they were covering up for their colleagues or fellow police officers."

The Minister's position in this regard was made clear in his opening remarks before the Justice Committee when he said:

"We have designed a process which completely opens the civilian complaints system to public review, which requires the police force to respond properly and effectively to complaints of misconduct and which installs and creates independent civilians as the ultimate arbiters of acceptable police conduct. Yet, it still places on the members of the police force the basic responsibility to police themselves on a day-to-day basis, a responsibility which is consistent with the task delegated to them by our society. I would suggest that if we turn every complaint into an adversarial process between the police force and the individual, then we will only institutionalize confrontation when mediation and conciliation would often be more appropriate and certainly more in the public interest.

I suggest, at the outset, that the philosophy of this Bill is consistent with every major report or study done in Canada and elsewhere with respect to the processing of civilian complaints against the police.....all recommending that the police should have the initial opportunity to resolve complaints."

There were a number of other criticisms of the proposed Act but these were mainly procedural in nature. As a result of

the Justice Committee hearings, a number of these procedural changes were made.

Significance of Pilot Project:

The preamble to the legislation reads:

"...(this is) an Act for the establishment and conduct of a Project in the Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force".

This preamble is of critical importance in any effort to understand the general purpose of the legislation. Of particular note is the fact that this Office is involved in a "project", the main objective of which is to "improve methods of processing complaints". The experimental nature of this legislation is the foundation upon which the efforts of my Office must build. A new system is now in place but this new system is not to be viewed as final, but rather as the beginning of the solution.

Highlights of new procedure:

The legislation sets out a procedure which, as far as I am aware, is unique in many ways. Some of the highlights

of the new procedure are:

- A person can complain directly to my Office, which is a civilian agency, if they choose. The person can, of course, also complain directly to the police, as in the old system.
- The civilian agency is provided with a copy of a complaint made in the first instance to the police (and vice versa) forthwith. Both agencies are then aware of all complaints made at the same time.
- The complainant, the Police Officer concerned and my Office are advised, in writing, every 30 days, of all the investigative steps taken by the police together with a detailed report on everything that is uncovered by the police investigation, including the police officer's version of the incident.
- My Office can conduct its own civilian investigation 30 days after a complaint is made. In some situations, I can start my own investigation immediately.
- The decision made by the Chief of Police concerning disciplinary action against the officer, is based solely on the police investigation reports that are sent to my Office and to the complainant together with any investigation reports that are provided by my Office, thus ensuring that the basis for the Chief's decision is fully known to both the civilian agency and the complainant.
- The complainant has a right to appeal the decision of the Chief of Police by asking my Office to conduct a review of the Chief's decision.
- I, as an independent civilian, decide whether the action taken by the Chief of Police is appropriate in the interests of the public. I also decide whether the matter should proceed to a public hearing before an independent civilian board. This independent board - The Police Complaints Board - also has the power to impose penalties against officers who are found guilty of misconduct.
- All parties to a complaint have the right to appear at the Board hearing, with Counsel if they wish, to present evidence and to cross-examine witnesses.

II

THE INFORMAL PERIOD

Introduction:

The period between my appointment in July and proclamation of the Act in December was not without its problems and frustrations. However, our Office had an opportunity, during this informal period, to devise means and ways of dealing with problems that were unforeseeable by the legislators and to create a workable model for our pilot project. As a result, the systems, forms and procedures to implement this new Act were in place the day the Act was proclaimed.

Initial difficulties:

At the time of my appointment in July, 1981, the Bill had not yet been enacted and the Justice Committee had yet to deliberate on the legislation. However, the Attorney General stated that since there was an urgent need to respond to public concerns, the Office of the Public Complaints Commissioner was to be considered open for business from July 23, 1981, although on an informal basis. It was my view that we should not be directly involved in the public debate while the Bill was being deliberated by the Justice Committee. I am happy to report that the accomplishments of my Office in this informal period - although not what one could call, "front page news" - were extensive and,

I feel, very important.

Set-up of Office and hiring
of Staff:

Since the Office of the Public Complaints Commissioner was to be open for business immediately, my view first concerns were those of staff and facilities. My own law office, in a downtown highrise, was used as temporary headquarters until we could be moved to more suitable premises. My Executive Assistant, Valerie Sharp, was initially responsible for all administrative matters. Mr. Edward R. Singleton was appointed Director of Investigations in the first week of August, 1981. In September, Stephen B. Ginsberg, was appointed Director of Administrative and Legal Services. One of his first tasks was to familiarize himself with the administrative procedures of the government and to prepare budgets for our forthcoming years of operation. As the number of cases increased, it was necessary to take on secretarial and clerical staff. Another investigator, Philomena Stanway, was hired in the fall and it became necessary to hire a third investigator, Steve Lechnowsky, before the end of 1981. Because of our increased staff and other administrative matters, Alice Murray was appointed as Office and Public Relations Manager early in the New Year.

Since our staff was rapidly outgrowing our available and limited office space, it was necessary for the administrative staff to devote some time to the matter of designing and planning facilities, in conjunction with the Ministry of Government Services. During the fall of 1981 it was decided that a new "street level" office would be prepared for us at 157 Bloor Street West. Immediately following the pre-proclamation period, administrative responsibility for the Office of the Public Complaints Commissioner was transferred from the Ministry of the Solicitor General to the Ministry of the Attorney General.

Negotiation and set-up of
procedures:

Aside from the initial problems of staff and set-up, one of our most important tasks was to thoroughly understand the practice and policy of the police force's Public Complaints Investigation Bureau (formerly known as the Citizens' Complaints Bureau). Under the new legislation, this Bureau would continue to conduct the initial investigation of citizen complaints. Since we would be in almost daily contact with them, it was of paramount importance to establish open lines of communication. By agreement with Chief Ackroyd, our Office began receiving and thereby directly monitoring copies of all citizens' complaints on September 14, 1981 (we had been receiving copies of complaints made from the date of

my appointment but not on a regular basis). Any complaint made directly to our Office was forwarded to the Bureau, forthwith, as were complaints forwarded to us that were made initially to them.

We had several meetings with Chief Ackroyd, Staff Superintendent Jack Ward, Superintendent Bill Dickson and Staff Inspector Robert McBride. Superintendent Dickson had been in charge of the Public Complaints Investigation Bureau and Staff Inspector McBride assumed this role in December, 1981. They were extremely helpful and co-operative, thereby making a very difficult task much easier. It must be remembered that the Force's Bureau had been an integral part of their department for six years and they had developed their own systems and procedures. Any bureaucracy is, by its very nature, resistant to change - particularly, when the pressure for change comes from without - and I am conscious of the disruptive effect this new legislation has had on the Bureau. However, the senior officers of the Metropolitan Toronto Police Force and the men and women of the Bureau have amply demonstrated, by their efforts to implement the new procedures, their desire to improve the calibre of their Force and its relations with the community.

New forms and changes
in procedures:

The police were fully co-operative in making the necessary changes and adjustments in their procedures in order to

comply with the requirements of the Act. Our offices worked together in designing the necessary forms required by the Act, on the assumption it would be passed. We designed the reporting forms and the investigative format for the police to use. The forms were immediately put into use and gradually, over the informal period, the police began to report to us and to the complainants, as the Act required, on forms designed in consultation. (Copies of the forms devised by our Office during the informal period are appended to this Interim Report).

We also felt that it was not only necessary but crucial to the success of our new procedure that the Bureau split its function into two separate and distinct areas - investigation and adjudication of complaints. The investigators with the Bureau had, over the years, developed the practice of deciding on the evidence, while conducting the investigation of a complaint, which, of course, hampered their objectivity. We were pleased to learn at one of our earliest meetings with Superintendent Dickson, that this split in functions was already taking place. Staff Inspector McBride was placed in charge of the investigative side of the Complaints Bureau, effective December 21, 1981 and Superintendent Dickson was appointed by the Chief of Police to be his designate as adjudicating officer. The Bureau investigators reported to and were directed by Staff Inspector McBride and the

results of their investigation in the form of a final report were turned over to Superintendent Dickson who made the decisions regarding disposition of the complaint on behalf of the Chief. (Under the new administrative procedures recommended in the Hickling-Johnston Report, the Bureau will report to one Deputy Chief and the decisions regarding disposition of complaints will be made by another Deputy Chief.)

Procedures in our Office:

The police were not alone in their efforts to devise procedures to comply with the new legislation. Our Office also had to devise forms and internal procedures for handling complaints from the time they were initially received to the time we were requested to conduct a review by a complainant after a decision on a request for review was made.

Requests for review:

Although a more detailed analysis of the complaints handled during this informal period will be given at Part V of this Interim Report, a few general comments on what we accomplished with respect to those complainants who requested a review may be in order. (It must be remembered that the Police Complaints Board had not been appointed and I could not order a public hearing after a review.) We were able,

on review, to resolve most complaints to the satisfaction of the complainant. Many requests for review were really requests for information which we were then able to obtain from the police, thereby satisfying the complainant.

We were left with several cases in which we felt some action should be taken. If these complaints had been made subsequent to proclamation, we may have ordered a Board hearing. However, because the initial complaints pre-date proclamation, these cases are still unresolved and under consideration at the time of writing this Interim Report. The eventual disposition of these cases will be included in our First Annual Report.

Publicity and promotion:

Aside from designing forms and procedures for the efficient operation of our system, we also found it necessary to write and design "promotional" material to be released after the Act was proclaimed so that the public would know who we were, where we were and what we did. The Ministry had an advertisement prepared that ran in a large number of ethnic community newspapers in the Toronto area on two occasions. (A copy of the ad is appended.) Our Office had a poster prepared from the advertisement that was distributed for display in police stations, legal aid clinics, libraries, etc. We also prepared the text of a pamphlet that was printed (also appended) and widely distributed.

in the spring of 1982. This pamphlet includes the graphic logo designed for our Office which emphasizes the role of mediator that the Public Complaints Commissioner can play. In addition to preparing this written material, I attended several meetings of civic and community groups to explain our new system, spoke at meetings of various organizations and gave interviews to newspaper, radio and television reporters. As well, I and several members of my staff have met with various groups of police officers to assist them in understanding the Act.

III

OTHER MATTERS

Hold-Up Squad/C.I.R.P.A.
allegations:

A number of specific allegations of police misconduct were made by members of a group known as C.I.R.P.A. (Citizens' Independent Review of Police Activities). Representatives of this group appeared before the Metropolitan Toronto Board of Commissioners of Police in the fall of 1981 and made a number of allegations regarding police misconduct. They asked that the Board of Commissioners investigate and deal with these matters. These complaints were put into the system and dealt with in the manner envisaged by the legislation.

In addition to the C.I.R.P.A. group of complaints, there were a number of specific complaints made by a group of criminal lawyers relating to alleged activities of the Hold-Up Squad. The Chief of Police responded to these allegations by appointing a special team of investigators headed by Staff Superintendent Jack Reid, who were directed to provide my Office with copies of their reports to the Chief. This was done in keeping with our agreement to operate as if the Bill were proclaimed, even though it was not. Staff Superintendent Reid did report to us regularly and kept us informed of the progress of his investigation.

When the police investigation was completed the group of lawyers who made the allegations were dissatisfied with it and representatives of that group attended at my Office to request that I complete and review these investigations. Because of the manner in which they had begun, we felt that it was incumbent upon us to accept these complaints and proceed with them, even though they pre-date proclamation of the Act. These complaints are being investigated by my staff at the present time. Extra staff and facilities have been arranged to deal with the "Hold-Up Squad complaints". A report on the Hold-Up Squad complaints will be prepared and released when completed. We expect that to be before the end of 1982.

IV

RESEARCH PROJECTS

Introduction:

Our Office is not intent solely upon processing the complaints and requests for review that come before it. Our Act also calls upon us to recommend changes in policy and procedures in order to minimize conflict between citizens and police. The main tools we will use in this effort are research into police complaints procedures in other jurisdictions, consultation with interested groups and the gathering and analysis of statistical data on complaints within Metropolitan Toronto itself.

A comparative analysis of police complaints systems across Canada was begun in November, 1981 and continues. We are also studying systems in cities across the United States as well as the police complaints system in England. Obviously, the police community is a group which is strongly affected by the legislation and I intend to continue my efforts to consult with senior officers who are engaged in the administration of the Act, as well as officers who are "on the beat" and dealing directly with the public. This will be especially important when considering whether or not certain police practices or procedures should be altered. In addition, I will be consulting with individuals and groups in the community regularly to receive their input into improving the system.

Design of research project:

Sections 14(1)(b) and (f) of the Act impose a duty on the Public Complaints Commissioner to "monitor the handling of complaints" by the police and to "evaluate the effectiveness of the system for handling complaints" as set out in the Act. Section 27 of the Act requires the Commissioner to "prepare a report evaluating the effectiveness of this system for handling complaints during the three years of the operation of the project". This triennial report must be forwarded to the Attorney General and the council of the Municipality of Metropolitan Toronto. The Attorney General is required to submit the report to the Lieutenant Governor in Council and also lay the report before the Legislative Assembly.

The most important source of information for the preparation of our report on police complaints in Metropolitan Toronto will be the complaint forms themselves and the questionnaires that will be devised and distributed to complainants to help us evaluate this system. Our Office is fortunate to have Dr. Ann Cavoukian of the Ministry of the Attorney General, designing an extensive research project to gather and analyse data on police complaints in Toronto. Assisting her is Susan James, who joined our staff in the spring of 1982, and who is responsible for the collection and coding of the data.

V

STATISTICS ON COMPLAINTS
RECEIVED DURING INFORMAL PERIOD

Introduction:

Research data and statistics on all phases of the new complaints procedure have been gathered for the complaints that came into the system from July 23 to December 20, 1981, (any complaints that came into the system on December 21 and thereafter are not included in this Interim Report).

The Metropolitan Toronto Police Force had, through the Police Complaints Investigation Bureau, gathered basic statistics on the number of complaints lodged, the types of complaints and their disposition. Their statistics indicated that the number of complaints over the past five years had been fairly steady on an annual basis - from a high of 894 complaints in 1978 to a low of 786 in 1981. Three types of complaint had been delineated in this five year period: those dealing primarily with assault by an officer, misconduct of an officer or an officer's neglect of duty. The breakdown of complaints by these three classifications was roughly: assault 43.9%, misconduct 50.0%, neglect 6.2%. The percentage of complaints against police that had been substantiated by the Chief ranged from a low of 2.6% in 1980 to a high of 3.6% in 1979.

Under our Act, as in the past, a complaint recording form is completed for every complaint lodged against the police. This complaint recording form was designed to gain the maximum amount of information from each complaint case file, such as: the date, location and police division of the occurrence; number and type of complaint; precipitating factor and injuries (if any); and extensive details on all stages of the complaint process from the day it was filed to the day of the outcome. Information relating to the time involved from one stage of the procedure to another will also be gathered in order to give our Office an indication of how efficiently the system is running. A copy of the complaint recording form is appended to this Interim Report.

Detailed study of complaints
received during informal period:

The statistics collected from complaint recording forms on the informal period cases (dating from July 23, 1981 to December 20, 1981) are presented and discussed below. The total number of these cases that our Office monitored was 246. Of these, 214 cases were closed (completed) at the time this report was prepared, 12 cases failed to develop (these cases include, among others, complainants who arranged meetings with our investigators and failed to attend, complainants who failed to re-contact us or who did not respond to follow-up letters and complaints that proved to be out of our jurisdiction), and the remaining 20 cases

remain open (most of the 20 open cases concern the Hold-Up Squad allegations). The statistics presented in the remainder of this Interim Report will be based upon the 214 closed cases.

i) Where complaints made:

The majority of the informal period complaints were filed with the police: 42.5% at a police station, 31.3% at the Police Complaints Bureau and 20.1% by letter to some police body (e.g., Police Commissioner, Police Complaints Bureau, Chief of Police, etc.) Thus, 94.4% of the complaints were filed with the police, while 5.1% were filed with the Office of the Public Complaints Commissioner (PCC). This finding is to be expected given the fact that the PCC had not been formally established or publicized to any great extent before proclamation. This data may be found in Table 1.

ii) Time and date of complaint incident and the complaint:

The day of the week on which the complaint incident occurred tended to lean heavily towards the week-end: Saturday accounted for almost one-quarter of all complaints - 23.9% of the complaints took place on a Saturday, while 15.1% took place on a Sunday. The two days of the week-end account for 39% of all

TABLE 1

LOCATION WHERE COMPLAINT FILED

	<u>No.</u>	<u>%</u>
Police Station	91	42.5
Police Complaints Bureau	68	31.8
Public Complaints Commissioner	11	5.1
Letter	43	20.1
Other	<u>1</u>	<u>0.5</u>
TOTAL	214	100.0

Note: When the total of the "No." column is less than 214,
the difference is due to missing data where the information
required for the table was not present.

complaints. Complaints occurring on a Friday resulted in 16.1% of the total. The full list of the days of the week and the respective number of complaints taking place on each day is presented in Table 2.

The days on which the complaints were actually filed, however, did not reflect the pattern of complaint occurrence. There was really very little, if any, pattern among the days on which complaints were filed, as may be seen in Table 3. This difference between occurrence date and filing date is primarily due to the fact that relatively few complaints (roughly 25%) were filed on the same day on which the complaint incident took place.

With respect to the time of day at which the complaint incident occurred, close to two-third's of the incidents leading to complaints took place between 6:00 p.m. and 3:00 a.m. The one time period that accounted for the greatest number of occurrences (23.1%) was from midnight to 3:00 a.m. The complete list of times of occurrences may be found in Table 4.

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	<u>No.</u>	<u>%</u>
Monday	24	11.7
Tuesday	20	9.8
Wednesday	21	10.2
Thursday	27	13.2
Friday	33	16.1
Saturday	49	23.9
Sunday	<u>31</u>	<u>15.1</u>
TOTAL	205	100.0

TABLE 3

DAY COMPLAINT FILED

	<u>No.</u>	<u>%</u>
Monday	38	17.8
Tuesday	44	20.6
Wednesday	30	14.0
Thursday	29	13.6
Friday	36	16.8
Saturday	22	10.3
Sunday	<u>15</u>	<u>7.0</u>
TOTAL	214	100.0

TABLE 4

TIME OF OCCURRENCE

	<u>No.</u>	<u>%</u>
12:00 a.m. to 3:00 a.m.	42	23.1
3:00 a.m. to 6:00 a.m.	9	4.9
6:00 a.m. to 9:00 a.m.	5	2.7
9:00 a.m. to 12:00 p.m.	16	8.8
12:00 p.m. to 3:00 p.m.	11	6.0
3:00 p.m. to 6:00 p.m.	28	15.4
6:00 p.m. to 9:00 p.m.	35	19.2
9:00 p.m. to 12:00 a.m.	<u>36</u>	<u>19.8</u>
TOTAL	182	100.0

The number of days from the occurrence of the incident complained about to the date the complaint was actually filed varied considerably: 27.2% of the complaints were filed on the same day as the incident, while 20.9% were filed the next day; 11.7% were filed two to three days later. Another 12.2% of the complaints were filed four to six days after the incident. Thus, close to three-quarter's of the complaints (72%) were filed within the first week of the occurrence and 78% of the complaints were filed within two weeks. The data for number of days from date of occurrence to date of filing is presented in Table 5.

iii) Location of complaint incident:

The majority of the incidents that led to complaints against the police took place on the street - 61.3% of all complaints. The next most frequent location - 13.7% of incidents - was at a house or residence. This was followed by police buildings (8.5%) and other public buildings (7.1%). The complete list of locations of occurrences leading to complaints may be found in Table 6.

TABLE 5

NUMBER OF DAYS FROM DATE OF
OCCURRENCE TO DATE OF FILING

	<u>No.</u>	<u>%</u>
Same day	56	27.2
Next day	43	20.9
2 - 3 days	24	11.7
4 - 6 days	25	12.2
8 - 14 days	12	5.9
15 - 21 days	14	6.8
22 - 30 days	9	4.5
31 - 60 days	8	4.0
61 - 90 days	7	3.5
Over 90 days	<u>8</u>	<u>3.9</u>
TOTAL	206	100.0

TABLE 6

LOCATION OF COMPLAINT OCCURRENCE

	<u>No.</u>	<u>%</u>
Street	130	61.3
Residence	29	13.7
Police Building	18	8.5
Police Vehicle	8	3.8
Public Building	15	7.1
Plaza or Mall	6	2.8
Other	<u>6</u>	<u>2.8</u>
TOTAL	212	100.0

The police division that had the highest incidence of complaints was 52 Division which accounted for 20% of all complaints. 55 Division and 32 Division each had 9.4% of the complaints. The remaining divisions tended to have roughly 5% or fewer complaints and may be found in Table 7.

The unusually high incidence of complaints arising out of 52 Division may be explained by its location in the downtown core, where there is considerably more activity, especially on week-ends and at night when most complaints occur. The high number of contacts that the officers of this Division have with the public would also contribute to a greater number of complaints out of this Division.

The police division in which the complaint incident occurred was often the same as the one in which the complainant lived, or was adjacent to the division where the complainant lived, (i.e., 52 and 53 Divisions): 45.4% of the complainants lived in the same police division as that of the occurrence; 23% lived

TABLE 7

POLICE DIVISIONS IN WHICH COMPLAINTS OCCURRED

<u>Police Division</u>	<u>No.</u>	<u>%</u>
Division 11	10	4.9
Division 12	4	2.0
Division 13	10	4.9
Division 14	11	5.4
Division 21	8	3.9
Division 22	6	3.0
Division 23	9	4.4
Division 31	11	5.4
Division 32	19	9.4
Division 33	12	5.9
Division 41	10	4.9
Division 42	3	1.5
Division 43	3	1.5
Division 51	11	5.4
Division 52	40	19.7
Division 53	12	5.9
Division 54	5	2.5
Division 55	<u>19</u>	<u>9.4</u>
TOTAL	203	100.0

in a division adjacent to the division of occurrence; 31.6% of the complaints did not take place in a division close to the complainant's residence.

iv) Data on complainants:

The great majority of the complainants were male - 80.7%; female complainants made up 19.3% of the total. Complainants tended to be young, with two-third's of them falling under 35 years of age (40.7% fell under 25 years). The full list of age categories of complainants may be found in Table 8.

The majority of complainants - 81% - lived in unsubsidized housing, while 10.8% lived in subsidized dwellings, mostly highrise buildings (8.8%). Most of those living in unsubsidized homes lived in single family units (54.1%). The remainder lived in highrise buildings (21%) or multiple unit buildings (5.9%). This data may be found in Table 9.

One-quarter of the complainants were allegedly intoxicated or high on drugs at the time of the incident complained of: 21.3% were alleged to be

TABLE 8

AGE OF COMPLAINANTS

	<u>No.</u>	<u>%</u>
Under 16	4	2.3
16 - 17	3	1.7
18 - 25	63	36.6
26 - 35	42	24.4
36 - 45	30	17.4
46 - 55	18	10.5
56 - 65	9	5.2
Over 65	<u>3</u>	<u>1.7</u>
TOTAL	172	100.0

TABLE 9

RESIDENCE OF COMPLAINANT

	<u>No.</u>	<u>%</u>
Unsubsidized Single Family	111	54.1
Unsubsidized Multiple	12	5.9
Unsubsidized High Rise	<u>43</u>	<u>21.0</u>
	<u>166</u>	<u>81.0</u>
Subsidized Single Family	3	1.5
Subsidized Multiple	1	0.5
Subsidized Highrise	18	8.8
Other	<u>17</u>	<u>8.3</u>
	<u>39</u>	<u>19.0</u>
TOTAL	<u>205</u> ===	<u>100.0</u> =====

drunk and 3.3% were alleged to be on drugs.

v) Types of complaints:

The most frequent complaint lodged against a police officer was assault. 50% of the complainants filed a complaint of assault - 39.3% complained of common assault, while 10.8% complained of assault bodily harm.

The second most frequent complaint was that of verbal abuse/incivility with 46.7% of the complainants filing this type of complaint.

The following four types of complaint also appeared with some regularity: harassment/oppressive conduct 29.0%; irregularity in procedure 15.9%; mishandling of property 6.5% and traffic irregularity/improper exercise of discretion 6.5%. The complete list of types of complaints and the number of complainants who filed each type is presented in Table 10.

The average number of complaints per complainant was 1.7. The great majority (84.1%) had either

TABLE 10

TYPES OF COMPLAINTS

	<u>No.</u>	<u>%</u>
Assault	107	50.00
Common Assault	84	39.25
Assault Bodily	23	10.75
Verbal Abuse/Incivility	100	46.73
Harassment/oppressive conduct	62	28.97
Irregularity in Procedure	34	15.89
Mishandling or damage to property	14	6.54
Traffic Irregularity/improper exercise of discretion	14	6.54
Unlawful Arrest	7	3.27
Neglect of Duty	5	2.34
Inadequate Police Service	4	1.87
Unlawful Search	4	1.87
Officer Traffic	2	.94
Irregularity re: Evidence	2	.94
Corruption, Theft, Fraud	2	.94

NOTE: The total percentage of complaints exceeds 100% since each complainant could file more than one complaint. The numbers reported above are the number of complainants who filed each type of complaint.

one or two complaints: 47.2% of the complainants complained of only one complaint, while 36.9% complained of two. The remaining 14.5% complained of three complaints and 1.4% of four complaints.

The great majority of those complaints filed in this sample - 92.5% - were not complaints arising from racial or other slurs by police officers. The cause of the complaint, as seen by the complainant, was some form of racially derogatory comment in 6.1% of the cases and harassment by police of homosexuals in 1.4% of the cases.

vi) Precipitating factors:

The incident that had actually precipitated the complaint was also coded in the complaint recording form. The most common source of incident was a traffic violation - 35% of all complaints arose out of police officers stopping people for traffic violations. The second most frequent precipitating factor - 32.7%, was a criminal investigation of the complainant by the police (unrelated to the complaint itself). The only other factor that occurred with some frequency was an incident that occurred during

the time of arrest: 13.1% of the complaints results from the time the complainant was being placed under arrest (again, for an incident unrelated to the complaint). The full list of precipitating factors is presented in Table 11.

vii) Alleged injuries and damages:

There were no injuries complained of in roughly two-third's of the cases (63%). For the remainder, the most frequent type of injury was cuts/bruises: 32.7% of the complainants reported this type of injury; 7.7% complained of injuries or pain inflicted by handcuffs; 3.4% of the complainants reported a fracture type of injury. The full list of alleged injuries of complainants may be found in Table 12.

The severity of the injury was also recorded with respect to the 83 complainants who alleged injury: 27.4% of the injuries were minor in nature (mild bruises, small lacerations - i.e., scratches); 60.3% of injuries were moderate (extensive bruising, cuts, swelling) and 12.3% of injuries were serious (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

*

The degree of severity of both injuries and property damage was a subjective judgment made by the researcher.

TABLE 11

FACTORS PRECIPITATING COMPLAINTS

	<u>No.</u>	<u>%</u>
Traffic Violation	75	35.0
Criminal Investigation	70	32.7
At Time of Arrest	28	13.1
During Interrogation	9	4.2
Request for Identification	6	2.8
Parking Violation	3	1.4
Domestic Matter	3	1.4
Other	13	6.1
No Apparent Precipitating Factor	<u>7</u>	<u>3.3</u>
TOTAL	214	100.0

TABLE 12

INJURIES TO COMPLAINANTS

	<u>No.</u>	<u>%</u>
Cuts/Bruises	68	32.69
Handcuff Injuries	16	7.69
Fractures	7	3.37
Genitalia Injuries	4	1.92
No Injuries	131	62.98

NOTE: The total number of injuries exceeds 100% since a complainant could have more than one injury.

The complainants attended hospitals in regard to these injuries in 43.8% of cases.

The incidence of property damage claimed by complainants was very low - 6.5% of the complaints involved allegations of property damage: 2.8% of the damage was minor in nature (damage estimated under \$75 - small scratches, dents, etc.) and 3.7% of the damage was of moderate severity (damage estimated under \$150 - broken window, damaged door, etc.).*

In cases of injury or property damage, no photographs were taken in the majority of cases - 73.3%. Photographs were taken by the Police Identification Unit in 20.1% of the cases and by others in 4.7% of the cases. The new investigative format under the Act requires the police to photograph any alleged injury or alleged damage at the earliest possible opportunity and, therefore, we expect this statistic to change.

viii) Dispositions of complaints:

Two-third's of the complaints (63.6%) were fully

investigated and formally resolved, (i.e., some decision was made on the complaint); 31.8% of the complaints were resolved informally, (i.e., to the mutual satisfaction of the parties. As indicated by Staff Superintendent Dickson before the Justice Committee in October, there was approximately a 90% informal resolution rate before the Office of the Public Complaints Commissioner was instituted).

1.9% of the complaints were withdrawn; 2.8% of the complaints were not proceeded with by the Police Complaints Bureau due to the fact that the police officers in question were charged criminally by the complainant and the charge was before the Courts.

It was our view that the investigation of a complaint should generally continue in these circumstances. Accordingly, we entered into discussions with senior representatives of the Ministry of the Attorney General. We were able to come to an agreement whereby investigations of complaints are now continued even though a criminal charge may be outstanding. There may, however, sometimes be situations where the investigation of a complaint could jeopardize an outstanding criminal charge and would, therefore, be held until the criminal charge is completed.

For those cases which were informally resolved, the great majority of the resolutions took place after a formal investigation had commenced: 85.3% were resolved informally after the formal investigation commenced compared to 14.7% that were resolved before the formal investigation had started.

For the 136 cases (63.6%) which were fully investigated, thus leading to a decision by the Chief of Police, the most common finding made by the Chief's designate (in 134 of the cases or 98.5%) was 'no action warranted'. Of the cases which were substantiated, the police officer complained of was counselled in 0.8% of the cases and a criminal charge was laid against the police officer in the remaining 0.8% of the cases.

The fact that no disciplinary action or suspension was taken by the police in 98.5% of the cases that were fully investigated may seem, at first glance, to be unreasonably high. It must, however, be remembered that in each of these 134 cases the Chief had to give written reasons for his decision to both the complainant and to this Office. The

complainant also had the right to request me to conduct a review of the Chief's decision if dissatisfied with the Chief's reasons. Fifteen complainants did so in the informal period.

It must also be pointed out that the primary reasons for a finding of 'no action warranted' is insufficient evidence to prove the allegation. This was the reason given in 62.5% or 85 of the unsubstantiated cases. These cases generally involved an allegation made by a complainant and a denial of the allegation by the officer with no evidence to support either version of the incident. This does not mean that the Chief gave more weight to the police officer's version of events or that he doubted the word or motives of either the complainant or the police officer. What it does mean is that the Chief did not take action without sufficient evidence.

Other reasons for a finding of 'no action warranted' were that the officer had acted lawfully (22.8% or 31 cases) and that the officer's position had been verified independently by other witnesses (11.8% or 16 cases). A full list of dispositions of complaints may be found in Table 13.

TABLE 13

DISPOSITION OF COMPLAINTS

	<u>No.</u>	<u>%</u>
Informal Resolution	68	31.8
Formal Resolution	136	63.6
Criminal Charge laid by complainant	6	2.8
Complaint Withdrawn	<u>4</u>	<u>1.9</u>
TOTAL	214	100.0

ix) Criminal charges against police:

Very few criminal charges were laid by complainants against police officers: 1.9% of the complainants laid charges of common assault and 0.9% laid charges of assault causing bodily harm. No criminal charge was laid in 97.2% of the cases. Of the charges that were laid, the majority (83.3%) were laid after a complaint had been filed. Only one charge of the cases studied was laid before the complaint was made.

There were no findings of guilt in the criminal trials of charges laid against police by a complainant. Charges were dropped or withdrawn by the complainant in 33.3% of the cases. A finding of "not guilty" was rendered in the remaining 66.7% of the cases.

Only one civil suit was lodged against a police officer for assault during this informal period. This civil suit is still pending.

x) Criminal charges against complainants:

During the informal period, there was

one charge of public mischief laid by police.

The circumstances of that charge were as follows:

On May 20, 1980, the complainant was driving his automobile and hit a hydro pole. The automobile was a complete write-off. The steering wheel was smashed in.

On September 21, 1981, sixteen months after the incident, the complainant made a complaint alleging that he was assaulted by a police officer and that his automobile was towed away and wrecked by the police on May 20, 1980.

The investigation into the complaint showed that on May 20, 1980, the complainant at no time made any mention of the allegations concerning assault and damage to his automobile by the police. In fact, at the time of the incident the complainant said that his injuries were due to the car accident. His injuries were consistent with banging against the steering wheel at the time of the accident.

In October, 1981, the complainant was charged with public mischief and he was later convicted and fined \$250.

Thirty-eight charges were laid for criminal offences committed by complainants (i.e., driving charges, obstruct police, property offences, etc.). These charges were unconnected to the complaint itself. The full list of criminal charges may be found in Table 14.

TABLE 14

CRIMINAL CHARGES LAID BY THE POLICE
AGAINST COMPLAINANTS

	<u>No.</u>	<u>%</u>
Driving Charge	10	4.7
Obstruct Police	6	2.8
Property Offence	8	3.7
Public Mischief	1	0.5
Intoxicated/Disorderly	4	1.9
Assault	2	0.9
Other	8	3.7
No Criminal Charge	<u>175</u>	<u>81.8</u>
TOTAL	214	100.0

The great majority of these charges (97.4% or 37 charges) were laid before a complaint had been filed by the citizen. Five of the complainants were found guilty as charged, 1 was found not guilty and 1 of the charges remains pending. The outcome for the balance of the 32 cases is unknown.

It is obvious from this brief analysis of some of the data compiled from 246 complaints made over a period barely encompassing five calendar months, that much information will be garnered from the statistical data our Office will collect each year. Our First Annual Report will be able to reflect an entire year-long period and each year's statistics will indicate trends and problem areas that will be the object of study and recommendations for change.

VI

SUMMARY AND PLANS

Summation:

Much useful information has been learned during

the informal period from July to December, 1981. This period allowed us to set up procedures, devise forms and test systems using real cases, complaints and problems as yard sticks and guides. The flow of cases in this informal period enabled me to grapple with a variety of issues that only became clear in relation to a specific citizen complaint. I feel the length of time between my appointment and proclamation of the Act was well used as a very successful "dry run" and my Office was in a position to act effectively on citizen complaints and concerns immediately upon the Act being proclaimed.

The real challenge now lies in putting lessons learned into practice and in exploring the potential that exists in this new police complaints procedure. The fact that the Police Complaints Board has now been appointed and will soon be holding public hearings into citizen complaints is another landmark achievement - not only in Toronto, but in Canada - where such a civilian board, with its powers, is unique. However, one should be careful not to judge the success of the project solely by the number of hearings that are held. The mere prospect of a public hearing has had a very beneficial effect on the manner in which complaints have been handled. An analogy may be drawn to a lawyer who issues 100 Writs of Summons during the course of a year but, proceeds to trial on only one. Clearly, that does not mean that he has not had success in the other 99 cases - sometimes the prospect of a trial accomplishes the desired effect.

Our Act provides a forum for informal resolution and mediation of disputes between a citizen and a police officer. Informal resolution is encouraged at every step throughout the process and, as Commissioner, I am empowered to mediate complaints and have done so. Several instances of mediation have already occurred and will be reported in our First Annual Report.

Future plans:

Our study of complaint systems in other jurisdictions will continue, of course, as will the extensive research project we have begun. It is also hoped that an international conference on police complaints procedures will be hosted by our Office in the fall of 1983 or spring of 1984.

At this early stage, I am happy to report that the new police complaints procedure appears to be working essentially as the legislators intended, giving the citizens of Metropolitan Toronto access to an effective and responsive police complaints system. I am encouraged by the co-operation I have received from both the public and the police. I am confident that this procedure is capable of working and I look forward to submitting my First Annual Report.

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

November, 1982.

BILL 68

1ST SESSION, 32ND LEGISLATURE, ONTARIO
30 ELIZABETH II, 1981

An Act for the establishment and conduct of a Project in
The Municipality of Metropolitan Toronto to improve
methods of processing Complaints by members of the
Public against Police Officers on the Metropolitan Police Force

THE HON. R. MCMURTRY
Solicitor General

BILL 68

1981

An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. In this Act,

Interpre-
tation

- (a) "Board" means the Police Complaints Board;
- (b) "Bureau" means the Public Complaints Investigation Bureau;
- (c) "chief of police" means the chief of police of the Metropolitan Police Force;
- (d) "complaint" means a complaint by a member of the public, made orally or in writing, respecting the conduct of a police officer;
- (e) "police officer" means a police officer on the Metropolitan Police Force;
- (f) "prescribed" means prescribed by the regulations;
- (g) "regulations" means the regulations made under this Act.

2. This Act applies only to complaints made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

Application
of Act

R.S.O. 1980,
c. 381

Appointment of Public Complaints Commissioner	3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner to exercise the powers and perform the duties assigned to him by this Act and the regulations.
Officers, etc. R.S.O. 1989, c. 418	(2) Such officers and employees as are considered necessary from time to time for the purposes of the Public Complaints Commissioner may be appointed under the <i>Public Service Act</i> .
Annual report	(3) The Public Complaints Commissioner shall report annually upon the affairs of his office to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.
Audit	(4) The accounts of the Public Complaints Commissioner shall be audited annually by the Provincial Auditor.
Board established	4.—(1) A board to be known as the Police Complaints Board is hereby established.
Chairman	(2) The Public Complaints Commissioner shall be the chairman of the Board.
Composition and appointment	(3) The Board shall be composed of the chairman and as many other members as the Lieutenant Governor in Council considers proper and such members shall be appointed by the Lieutenant Governor in Council.
Qualifi- cations	(4) One-third of the members of the Board shall be persons who have had training in law.
Recom- mendation for appointment	(5) The Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association shall jointly recommend to the Solicitor General for appointment to the Board such number of persons, other than police officers, as will constitute one-third of the membership of the Board.
Idem	(6) The council of The Municipality of Metropolitan Toronto shall recommend to the Solicitor General for appointment to the Board such number of persons as will constitute one-third of the membership of the Board.
Idem	(7) Recommendations under subsections (5) and (6) shall be made to the Solicitor General within such time as he may specify.
Remuner- ation	(8) The members of the Board shall receive such salaries or remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

(9) The chairman shall have general supervision and direction over the conduct of the affairs of the Board and shall arrange the sittings of the Board and assign members to conduct hearings as circumstances require. Duties of chairman

(10) The Board shall prepare and publish periodically a summary of its decisions and the reasons therefor and shall report annually on its affairs to the Solicitor General who shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session. Summaries and report

(11) The accounts of the Board shall be audited annually by the Provincial Auditor. Audit

(12) Such officers and employees as are considered necessary from time to time for the purposes of the Board may be appointed under the *Public Service Act*. Officers, etc.
R.S.O. 1980,
c. 418

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau. Bureau to be established

(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints. Staff

6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Public Complaints Commissioner. Where complaints may be made

(2) The person who receives a complaint shall record the complaint in the prescribed form and shall furnish the person making the complaint with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the person making the complaint. Information

(3) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Public Complaints Commissioner a copy of the complaint. Copy of complaint

(4) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Public Complaints Commissioner a copy of the complaint. Idem

(5) Where a complaint is recorded at the office of the Public Complaints Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint. Idem

7. Upon receipt of a complaint, the person in charge of the Bureau shall inform forthwith the police officer concerned of the Police officer to be informed

substance of the complaint, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Informal
resolution

8.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the person making the complaint and the police officer concerned, may attempt to so resolve the complaint.

Record of
informal
resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the person making the complaint and the police officer concerned shall each signify in writing his agreement to such resolution.

Copy of
record to be
furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Public Complaints Commissioner, the person making the complaint and the police officer concerned.

Informal
resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation under section 9.

Idem

(5) A complaint may be resolved informally by the Public Complaints Commissioner in accordance with the procedures in this section at any time during the course of or after a review under section 15.

No reference
in personal
record of
police officer

(6) No reference shall be made in the personal record of a police officer to a complaint resolved under this section, except where misconduct has been admitted by the police officer.

Investigation

9.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim
reports

(2) The person in charge of the Bureau shall forward to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the person who made the complaint and the police officer concerned where, in his opinion, to do so might adversely affect the investigation of the complaint or where there are no new matters to report, in which

case the person in charge of the Bureau shall forthwith notify the Public Complaints Commissioner of the reasons for his decision.

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report to be prepared and shall forward a copy thereof to the Public Complaints Commissioner, the chief of police, the person who made the complaint and the police officer concerned.

(5) A final investigation report prepared under subsection (4) shall,

- (a) contain a summary of the complaint and a description of the alleged misconduct by the police officer;
- (b) contain a summary of the investigation and of information obtained from the person who made the complaint, the police officer concerned and witnesses, if any; and
- (c) contain a description and analysis of any physical evidence obtained.

10.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he considers advisable and may, unless he decides that no action is warranted,

- (a) cause an information alleging the commission of an offence by the police officer concerned to be laid and refer the matter to the Crown attorney for prosecution;
- (b) refer the matter to the Board for a hearing by the Board;
- (c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and
- (d) after giving the police officer concerned an opportunity to reply to the complaint, either orally or in writing, counsel or caution the police officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any hearing by the chief of police or by the Board unless the chief of police or the Board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Final
report

Powers and
duties of chief
of police

R.S.O. 1980,
c. 381

Hearing
not stayed

Notice of
action taken

(3) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned and, where his decision is that no action is warranted or he has taken action under clause (1) (d), the chief of police shall give his reasons therefor.

Designation
by chief
of police

(4) The chief of police may designate any police officer to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the designated officer.

Application
of s. 19
R.S.O. 1980,
c. 381

11.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 19 (4), (6), (10), (11) and (12) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of
decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Public Complaints Commissioner, the person who made the complaint and the police officer concerned.

Police officer
may appeal

12. Where a hearing referred to in subsection 11 (1) has been held and a penalty has been imposed upon a police officer, the police officer may appeal to the Board under section 13 of this Act and not as provided in the *Police Act* and the regulations thereunder.

Notice of
appeal

13.—(1) A notice of appeal shall be served on the Board within fifteen days after the police officer receives notice of the penalty imposed.

Extension
of time

(2) Notwithstanding subsection (1), where the chairman of the Board is satisfied that there are *prima facie* grounds for granting relief and that there are reasonable grounds for granting an extension, he may extend the time for giving the notice either before or after the expiration of the fifteen day period referred to in subsection (1) and may give such directions as he considers proper consequent upon such extension.

Powers and
duties of
Public
Complaints
Commissioner

14.—(1) The Public Complaints Commissioner,

(a) shall maintain copies of all records, reports and other material received by him under this Act;

- (b) shall monitor the handling of complaints by the Bureau and the chief of police;
 - (c) shall review the record of the informal resolution of a complaint by the person in charge of the Bureau and may request that the person in charge of the Bureau cause an investigation or further investigation, as the case may be, to be made into the complaint;
 - (d) may, upon receipt of a copy of the final investigation report from the person in charge of the Bureau, request that the chief of police cause further investigation to be made into the complaint;
 - (e) shall receive a request for a review under section 15; and
 - (f) shall evaluate the effectiveness of the system for handling complaints.
- (2) Where the person in charge of the Bureau or the chief of police causes an investigation to be made under clause (1) (c) or (d), as the case may be, he shall forward the results of his investigation to the Public Complaints Commissioner. Results to be forwarded
- (3) Notwithstanding any other provision of this Act, the Public Complaints Commissioner may inquire into and investigate the allegations in the complaint, Public Complaints Commissioner may inquire and investigate
- (a) at any time after he receives the first interim report under subsection 9 (2) or the thirty-day period mentioned therein has expired;
 - (b) upon the request of the chief of police; or
 - (c) where there are reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 9.
- (4) A decision to take action under clause (3) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*. Review of decision
R.S.O. 1980,
c. 224
- (5) The Public Complaints Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an inquiry and investigation under clause (3) (a) or (c) and shall give his reasons therefor in writing and, after he completes any inquiry and investigation under subsection (3), he shall forward the results thereof to the chief of police, and the chief of police shall consider such results in his review of the final investigation report under subsection 10 (1). Notice to chief of police

Request for review	15.— (1) Where a person who has made a complaint is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of the Board or with action taken by the chief of police under clause 10 (1) (d) or with a decision of the chief of police that no action is warranted, he may request the Public Complaints Commissioner to review the matter.
Hearing may be ordered	(2) Where the Public Complaints Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by the Board if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.
Notice	(3) The Public Complaints Commissioner shall give forthwith written notice to the chief of police, the person who made the complaint and the police officer concerned of his decision under subsection (2) and, where his decision is to take no further action, shall give his reasons therefor.
Where hear- ing not to be ordered	(4) The Public Complaints Commissioner shall not order a hearing under subsection (2) where a police officer has appealed to the Board under section 13.
Powers on investigation	16.— (1) For the purposes of a review under section 15, the Public Complaints Commissioner may inquire into and investigate the allegations in the complaint and, for such purposes, he may, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.
Powers on inquiry R.S.O. 1980, c. 411	(2) For the purposes of an inquiry, the Public Complaints Commissioner has the powers of a commission under Part II of the <i>Public Inquiries Act</i> , which Part applies to such inquiry as if it were an inquiry under that Act.
Appointment of person to make inquiry and investigation	(3) The Public Complaints Commissioner may, in writing, appoint a person to make any inquiry and any investigation he is authorized to make and the person so appointed has all the powers and duties of the Public Complaints Commissioner relating to the inquiry and the investigation.
Report	(4) The person appointed to make an inquiry or investigation shall report the results of his inquiry or investigation to the Public Complaints Commissioner.
Obstruction	(5) No person shall obstruct the Public Complaints Commissioner or a person appointed by him to make an investigation or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation.

(6) Where a justice of the peace is satisfied upon an *ex parte* application by the Public Complaints Commissioner that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation, the justice of the peace may issue an order authorizing the Public Complaints Commissioner, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes.

Search
warrant

(7) The Public Complaints Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (6) relating to the investigation and shall with reasonable dispatch make copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed.

Removal of
books, etc.

(8) Any copy made as provided in subsection (7) and certified to be a true copy by the Public Complaints Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents.

Admissibility
of copies

(9) The Public Complaints Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (6).

Appointment
of experts

(10) This section applies with necessary modifications to an inquiry and investigation by the Public Complaints Commissioner under subsection 14 (3).

Application

17. Where, after making a review, the Public Complaints Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Solicitor General, the Ontario Police Commission, the Metropolitan Board of Commissioners of Police and the chief of police.

Report

18.—(1) Where,

Conduct of
hearing

- (a) the chief of police has referred a matter to the Board under clause 10 (1) (b);
- (b) a police officer has appealed to the Board under section 13; or
- (c) the Public Complaints Commissioner has, under subsection 15 (2), ordered a hearing,

the Board shall hold a hearing and the Public Complaints Commissioner shall assign in accordance with this section a member or members of the Board to conduct the hearing.

Idem (2) Where, in the opinion of the Public Complaints Commissioner, the complaint alleges misconduct by the police officer that is of a minor nature, he shall assign a member of the Board who has had training in law to sit alone to conduct the hearing.

Idem (3) Where, in the opinion of the Public Complaints Commissioner, the complaint alleges misconduct by a police officer that is of a serious nature, he shall assign three members of the Board who shall constitute a panel to conduct the hearing.

Who shall be on panel (4) The chairman of the panel constituted under subsection (3) shall be a member of the Board who has had training in law and, where possible, one member of the panel shall be a person appointed to the Board on the joint recommendation of the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association and one member shall be a person appointed to the Board on the recommendation of the council of The Municipality of Metropolitan Toronto.

Eligibility (5) Where the chief of police has referred a matter to the Board or a police officer has appealed to the Board, the Public Complaints Commissioner is eligible to sit alone to conduct the hearing under subsection (2) and to be chairman of a panel constituted under subsection (3).

Idem (6) Where the Public Complaints Commissioner has ordered a hearing by the Board, he is not eligible to sit alone to conduct the hearing under subsection (2) or to be a member of a panel constituted under subsection (3).

Public Complaints Commissioner required to sit (7) Where a police officer has appealed to the Board and the Public Complaints Commissioner is of the opinion that the complaint alleges misconduct that is of a minor nature, he shall so advise the police officer who may by written notice given within seven days require that the Public Complaints Commissioner be the member who sits alone to conduct the hearing.

Decisions (8) A decision of a member of the Board sitting alone and a decision of a majority of a panel is a decision of the Board and, for all purposes of a hearing, the member sitting alone or the panel, as the case may be, shall be deemed to be the Board.

Hearing **19.—**(1) The Board shall appoint a time for a hearing and shall conduct a hearing *de novo*.

(2) The Board shall give to the chief of police, the person who made the complaint and the police officer concerned written notice of the hearing and of the time appointed therefor.

Notice of
hearing

(3) The person who made the complaint may attend at the hearing and be represented by counsel or an agent and shall be given an opportunity to be heard and to examine before the hearing the written or documentary evidence or report referred to in subsection (4).

Opportunity
to be
heard

(4) The police officer concerned shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Opportunity
to examine
evidence

(5) The member or members of the Board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but the Board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Member
holding
hearing not
to com-
municate
with party

(6) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Oral
evidence

(7) The Board may appoint counsel to assist the Board at the hearing.

Counsel

(8) No member of the Board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Only
members at
hearing to
participate
in decision

(9) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him within a reasonable time after the matter in issue has been finally determined.

Release of
documents

(10) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the police officer concerned shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Police
officer not
required to
give
evidence
R.S.O. 1980,
c. 484

(11) Where the person in charge of the Bureau attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the

Statement
or
admission
not
admissible
in evidence

police officer concerned or by the person who made the complaint shall not be admitted in evidence at the hearing, except with the consent of the police officer or the person who made the complaint, as the case may be.

Proof of
misconduct

(12) No finding of misconduct by the police officer shall be made unless the misconduct is proved beyond a reasonable doubt.

Imposition
of penalty

(13) Where a member of the Board sitting alone finds the police officer guilty of misconduct, he may,

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited;
or
- (c) reprimand the police officer.

Idem

(14) Where a panel of the Board finds the police officer guilty of misconduct, it may,

- (a) dismiss the police officer from the Metropolitan Police Force;
- (b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) suspend the police officer from duty without pay for a period not exceeding thirty days;
- (e) direct that days off not exceeding twenty days be forfeited;
- (f) direct that pay not exceeding five days pay be forfeited;
or
- (g) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

Notice of
decision

(15) The Board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the person who made the complaint and the police officer concerned.

(16) No reference to a hearing conducted by the Board shall be made in the personal record of the police officer concerned unless the Board has made a finding of misconduct by the police officer. No reference to hearing

(17) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a police officer in respect of a hearing conducted by the Board and an appeal under section 20. Costs may be paid

20.—(1) A party to a hearing by the Board may appeal from the decision of the Board to the Divisional Court in accordance with the rules of court. Appeal

(2) The Solicitor General is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section. Solicitor General entitled to be heard

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 19 (14), or on both the question and the penalty. What may be appealed

21. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode. How notice, etc., may be served

22.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except, Matters confidential

(a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder; R.S.O. 1980, c. 381

(b) as may be required for the due enforcement of the law;

(c) to his counsel; or

(d) with the consent of the person to whom the matter relates.

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder. Testimony

What is inadmissible in evidence	(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the <i>Police Act</i> and the regulations thereunder.
R.S.O. 1980, c. 381	
Idem	(4) No oral statement, answer or admission referred to in subsections 19 (10) and (11) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the <i>Police Act</i> and the regulations thereunder.
R.S.O. 1980, c. 325 does not apply	23. The <i>Ombudsman Act</i> does not apply to the Public Complaints Commissioner or the Board.
Moneys	24. —(1) The moneys required for the purposes of the Public Complaints Commissioner and the Board shall, until the 31st day of March, 1982, be paid out of the Consolidated Revenue Fund and thereafter shall be paid out of the moneys appropriated therefor by the Legislature.
Idem	(2) The Solicitor General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of the Public Complaints Commissioner and the Board.
Offence	25. Any person who contravenes subsection 16 (5) or subsection 22 (1) is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.
Regulations	26. The Lieutenant Governor in Council may make regulations, <ul style="list-style-type: none"> (a) prescribing what shall be taken into account in determining whether misconduct is of a minor or serious nature; (b) defining conduct that may be the subject of a complaint; (c) respecting the reporting and publication of decisions of the Board; (d) assigning duties to the Public Complaints Commissioner; (e) prescribing criteria to be used by the Public Complaints Commissioner in evaluating the effectiveness of the system for handling complaints;

(f) prescribing forms and providing for their use; and

(g) prescribing any matter that by this Act is required to be or is referred to as prescribed.

27.—(1) This Act is repealed on a day that is three years after ^{Repeal} it comes into force or on such day thereafter as is named by proclamation of the Lieutenant Governor.

(2) The Public Complaints Commissioner shall prepare a ^{Report} report evaluating the effectiveness of the system for handling complaints during the three years of operation of the project and shall forward copies of the report to the Solicitor General and the council of The Municipality of Metropolitan Toronto.

(3) The Solicitor General shall submit the report to the ^{Idem} Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

28. This Act comes into force on a day to be named by procla- ^{Commence-} mation of the Lieutenant Governor. ment

29. The short title of this Act is the *Metropolitan Police* ^{Short title} *Force Complaints Project Act, 1981*.

BILL 68

An Act for the establishment and conduct of a Project in The Municipality of Metropolitan Toronto to improve methods of processing Complaints by members of the Public against Police Officers on the Metropolitan Police Force

1st Reading

May 15th, 1981

2nd Reading

July 3rd, 1981

3rd Reading

November 17th, 1981

THE HON. R. McMURTRY
Solicitor General

126 O. Reg. 853/81 THE ONTARIO GAZETTE O. Reg. 854/81

COUNTY, DISTRICT OR JUDICIAL DISTRICT	PLACE OF SITTINGS	COMMENCEMENT OF SITTINGS
Temiskaming	Haileybury	Third Tuesday in January and February Fifth Tuesday in March Fourth Tuesday in April Third Tuesday in May and June Second Tuesday in September Third Tuesday in October Fifth Tuesday in November Second Tuesday in December
Thunder Bay	Thunder Bay	First Monday in January, February, March, April, May and June First Tuesday in September First Monday in October, November and December
Victoria	Lindsay	Third Monday in March First Monday in November
Waterloo	Kitchener	Fourth Monday of each month
Wellington	Guelph	Fourth Monday in March Third Monday in May, September and November
York	Toronto	During all months of the year except July and August
York Region	Newmarket	First Monday in April Fourth Monday in September

O. Reg. 853/81.

W. E. C. COLTER

Chief Judge of the County and District Courts of
the Counties and Districts of Ontario

Dated at the City of Toronto, in The Municipality of Metropolitan Toronto, this 9th day of December, 1981.

(8701)

2

THE METROPOLITAN POLICE FORCE
COMPLAINTS PROJECT ACT, 1981

O. Reg. 854/81.

General.

Made—December 17th, 1981.

Filed—December 22nd, 1981.

REGULATION MADE UNDER THE
METROPOLITAN POLICE FORCE
COMPLAINTS PROJECT ACT, 1981

GENERAL

1.—(1) A complaint shall be recorded in Form 1.

(2) The statement to be furnished under subsection
6 (2) of the Act to the person making the complaint
shall be in Form 2. O. Reg. 854/81, s. 1.2. The record of an informal resolution of a com-
plaint shall be in Form 3. O. Reg. 854/81, s. 2.3. An interim or final investigation report shall be
in Form 4. O. Reg. 854/81, s. 3.4. An investigation under section 9 of the Act shall
be pursued quickly and diligently and the investigator
shall endeavour to obtain all information that may
have a bearing on the complaint. O. Reg. 854/81,
s. 4.5. All information and evidence obtained in the
investigation shall be recorded and preserved.
O. Reg. 854/81, s. 5.6. The investigator shall endeavour to interview the
person making the complaint and the police officer
concerned and to obtain written statements from
them. O. Reg. 854/81, s. 6.7. The investigator shall endeavour to interview the
witnesses named by the person making the complaint
and the police officer concerned and witnesses located

as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 854/81, s. 7.

8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 854/81, s. 8.

9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 854/81, s. 9.

10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 854/81, s. 10.

11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 854/81, s. 11.

12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 854/81, s. 12.

Form 1

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

COMPLAINT

DATE AND TIME REPORTED

Day	Month	Year	Time
-----	-------	------	------

Complainant Surname		Maple Ridge		Name of Clerk		Sex		Marital status	
Home address		Postal Code		Telephone No. - Residence		Business address		Food Shop	
Date of incident		Time		Location				Division	

DETAILS OF INCIDENT (must be typewritten or printed)

Details of injuries sustained

Use reverse side if more space required

Photograph NO ☐ YES ☐

Attending Physician

Name

Address

Telephone No.

Hospital attended

Physician

Witness(es)

Name

Address

Telephone No.

Physician

Did complainant

YES ☐NO ☐

Language

Interpreter's name and address

Telephone No.

Officer(s) involved

COMPLAINT RECEIVED BY:

Name

Rank

Number

Unit

Person

I CERTIFY THAT THE INFORMATION I HAVE GIVEN HEREIN IS TRUE

Name

Rank

Number

Unit

Signature of Complainant

DISTRIBUTION: Quadriplegia

WHITE

Public Complaints Investigation Bureau

PINK: Unit Commander of officer(s) in allegation

O. Reg. 854/81, Form 1.

Form 2

*Metropolitan Police Force Complaints
Project Act, 1981*POLICE COMPLAINT PROCEDURES
AND RIGHTS OF A PERSON
MAKING A COMPLAINT

To The Complainant:

This statement briefly sets out the procedures that will be followed upon receipt of your complaint against a member of the Metropolitan Toronto Police Force and your rights under the *Metropolitan Police Force Complaints Project Act, 1981*.

Who Sees Your Complaint

1. No matter where your complaint is recorded a copy of the complaint will be sent to the Public Complaints Commissioner and the Public Complaints Investigation Bureau (the Bureau) of the Metropolitan Toronto Police Force.
2. The police officer concerned will be informed of the substance of the complaint unless the investigation might be adversely affected if the police officer is so informed.

Informal Resolution

3. The person in charge of the Bureau will consider whether your complaint can be resolved informally and if this is possible he will attempt to do so, but only if he has your consent and the consent of the police officer concerned.
4. No complaint can be resolved informally unless both you and the police officer concerned agree in writing to the resolution.

Investigations and Reports

5. If the complaint is not resolved informally, the Bureau will investigate the complaint. The investigator will interview you, the police officer concerned and any other witnesses.
6. You will receive a report not later than thirty days after you make your complaint and on a monthly basis thereafter unless the investigation of the complaint might be adversely affected by a report or there are no new matters to report. The Public Complaints Commissioner will also receive these reports.
7. If at any time you are not satisfied with the manner in which your complaint is being handled you may contact the Office of the Public Complaints Commissioner, telephone: 963-1141.

8. In certain situations the Public Complaints Commissioner may decide to do his own investigation before the Bureau completes its investigation.

9. When the Bureau investigation has been completed, a final report will be sent to you, the Public Complaints Commissioner, the chief of police, and the police officer concerned.

Decision of The Chief Of Police

10. The chief of police or his designate will review all investigation reports and make one of the following decisions:

- i. Order further investigation.
- ii. Decide that no further action is warranted.
- iii. Cause a charge to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.
- iv. Refer the matter to the Police Complaints Board for a hearing.
- v. Cause disciplinary proceedings to be taken against the police officer under the *Police Act*.
- vi. Counsel or caution the police officer regarding his conduct.

11. You will be informed in writing of the decision made by the chief of police.

Review by Public Complaints Commissioner

12. If you are not satisfied with any of the following decisions you may request the Public Complaints Commissioner to review the matter:

- i. The decision of the chief of police that no further action is warranted.
- ii. The decision of the chief of police to counsel or caution the police officer regarding his conduct.
- iii. The decision made in a disciplinary proceeding under the *Police Act*.

13. Upon receipt of your request, the Public Complaints Commissioner will review the matter, and his staff have broad powers to investigate. Documents must be made available, and individuals can be subpoenaed to answer questions.

14. After his review, the Public Complaints Commissioner may order a hearing before

the Police Complaints Board where he feels that the public interest requires it. If he decides that there should not be a hearing, he will give you his reasons. The Public Complaints Commissioner will write to you, the chief of police and the police officer concerned about his decision.

Police Complaints Board Hearing

15. If a Police Complaints Board hearing is ordered, you will be notified in writing of the

date and place of the hearing. You have a right to attend and take part in the hearing and to be represented by counsel or an agent. You will also be given an opportunity, prior to the hearing, to examine any written or documentary evidence or any report that will be given in evidence at the hearing. The hearing will be open to the public. You will receive a copy of the Board's decision.

O. Reg. 854/81, Form 2.

Form 3

Metropolitan Police Force Complaints Project Act, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint:

File No.:

Complainant:

Name(s) Of Officer(s) Concerned:

Resolved By:

Summary Of Complaint And Investigation:

Manner In Which Complaint Resolved:

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at , this day of , 19
1904

O. Reg. 854/81

THE ONTARIO GAZETTE

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Witnessed By:

..... signature of complainant

..... signature of officer concerned

O. Reg. 854/81, Form 3.

Form 4

Metropolitan Police Force Complaints Project Act, 1981

REPORT

1. File No.:
2. Date of Report:
3. Type Of Report: ☐ Interim ☐ Final
4. Name Of Complainant:
5. Name(s) Of Police Officer(s) Involved:
(Include Rank and No.)
6. Name of Investigator:

SUMMARY OF COMPLAINT

7. Date, Time And Location:
8. Description Of Alleged Misconduct:

9. INVESTIGATION

Date	Location	Type of Investigation and Information Obtained

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THE ONTARIO GAZETTE

O. Reg. 855/81

10. Summaries Of Statements Of Complainant, Police Officer(s) And Witnesses.

Person Interviewed

Summary Of Statement
(include all relevant details)

11. Description And Analysis Of Documentary And Physical Evidence Obtained.

Type of EvidenceDescriptionAnalysis

Dated at , this day of , 19...

signature of investigator

Distribution: Complainant

Police Officer(s) Involved

Office Of The Public Complaints Commissioner

File

O. Reg. 854/81, Form 4.

(8702)

2

THE MILK ACT

O. Reg. 855/81.

Cream Producers—Licences.

Made—December 21st, 1981.

Filed—December 22nd, 1981.

REGULATION TO AMEND
REGULATION 619 OF
REVISED REGULATIONS OF ONTARIO, 1980
MADE UNDER THE
MILK ACT

1. Subsection 4 (1) of Regulation 619 of Revised Regulations of Ontario, 1980 is revoked and the following substituted therefor:

(1) Every producer shall pay licence fees at the rate of 10 cents for each kilogram or fraction thereof of milk-fat in cream delivered to a plant. O. Reg. 855/81, s. 1.

2. This Regulation comes into force on the 1st day of January, 1982.

THE ONTARIO CREAM PRODUCERS'
MARKETING BOARD:

MURRAY SMELTZER
Chairman

JOHN BILYEA
Secretary

Dated at Toronto, this 21st day of December, 1981.

(8703)

2

contact contact contact contact

the Public Complaints Commissioner

A civilian service set up
to resolve disputes between
You and Your Police.



Sidney B. Linden, Q.C.
Public Complaints
Commissioner

During the course of this pilot project I am hopeful that I will be able to count on the support of the citizens of Metropolitan Toronto, the Metropolitan Police Force and the Metropolitan Toronto Police Association.

I am confident that the expressions of goodwill received since my appointment as Public Complaints Commissioner will continue to provide a foundation for an atmosphere of co-operation and mutual respect that will ensure the success of this unique experiment.

Sincerely,

SIDNEY B. LINDEN, Q.C.
PUBLIC COMPLAINTS COMMISSIONER

Mr. Linden is a native of Toronto who, until his appointment as Public Complaints Commissioner, was a prominent member of the criminal bar and a well-known labour arbitrator. He was General Counsel to the Canadian Civil Liberties Association and served on its Board of Directors. He was Vice-President of the Criminal Lawyers Association and also active on the Legal Aid Committee of the Law Society of Upper Canada.

Questions & Answers

about police complaints in Metropolitan Toronto

New procedures are now in place for handling complaints from members of the public against police officers on the Metropolitan Toronto Police Force. This new system is a marked departure from the previous one where the police alone were responsible for these matters.

A citizen can now lodge a grievance directly with an independent civilian who is not connected with the police in any way. This person, the Public Complaints Commissioner, has the power to do his own investigation, completely separate from that conducted by the police. He is responsible for making sure that all complaints concerning allegations of misconduct are dealt with promptly and fairly.

As well, he may order a public hearing by the newly-established Police Complaints Board. The members of this Board are also independent civilians.

The Public Complaints Commissioner is in a position to identify those police practices or procedures which may be particularly productive of citizen complaints and he can recommend that appropriate changes are made to remedy these situations.

To assist the public, the Office of the Public Complaints Commissioner has assembled answers to the following common questions often put to it about the Metropolitan Police Force Complaints Project Act, 1981.

Question

Where do I make a complaint about the conduct of a police officer on the Metropolitan Toronto Police Force?

Answer

You may make your complaint at any one of the following locations:

- a) the Office of the Public Complaints Commissioner, 157 Bloor Street West, Toronto, Ontario M5S 1P7, telephone: 963-1141.
- b) the Metropolitan Toronto Police Public Complaints Investigation Bureau, 3080 Yonge Street, Toronto, Ontario M4N 3N1, telephone: 967-2367.
- c) any police station in Metropolitan Toronto (telephone 967-2222 for the station closest to you).

Question

When does the Public Complaints Commissioner become involved with my complaint?

Answer

IMMEDIATELY. No matter where you make your complaint, a copy is sent to the Office of the Public Complaints Commissioner. He monitors the investigation from the start.

Question

Who will investigate my complaint?

Answer

Initially, your complaint will be investigated by a police officer from the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. The Bureau is a separate unit within the Force.

If it is possible for your complaint to be resolved informally, the officer in charge of the Bureau may attempt to do so, but only if you and the police officer involved agree.

Question

Can the Office of the Public Complaints Commissioner investigate my complaint?

Answer

YES. The Public Complaints Commissioner can conduct his own civilian investigation 30 days after you make your complaint. In some situations, the Public Complaints Commissioner can start his own investigation immediately.

Question

When do I find out about the status of my complaint?

Answer

In general, within 30 days of making a complaint, you will receive an interim report on the investigation done up to that time. You will also receive further reports during the course of the investigation and a final report when it is completed. All of these reports are in writing.

Question

What happens after the final investigation report is made?

Answer

The Chief of Police will review the matter, decide what action, if any, is to be taken, and give written notice of his decision to you, the Public Complaints Commissioner, and the police officer concerned.

Question

What if I am not satisfied with the decision made by the Chief of Police?

Answer

You may ask the Public Complaints Commissioner to conduct a review. He may order that a public hearing be held by the Police Complaints Board, if he believes that it is in the public interest to hold such a hearing.

Question

What is the Police Complaints Board?

Answer

The Police Complaints Board is a group of civilians specifically appointed to conduct hearings into citizens' complaints about the conduct of police officers on the Metropolitan Toronto Police Force. The Public Complaints Commissioner is the Chairman of the Board and he assigns members of the Board to conduct these hearings.

Question

Do I have the right to attend the Police Complaints Board hearing and take part in it?

Answer

YES. You will be notified in writing of the date of the hearing. A lawyer will present the case to the Board but you may choose to be represented by your own lawyer or an agent. You will also be given a chance, before the hearing, to examine any written evidence or any report that will be given in evidence at the hearing.

Question

If the Police Complaints Board finds that the police officer is guilty of misconduct, what penalties can it impose?

Answer

The penalties that can be imposed by the Police Complaints Board depend on the nature of the misconduct. The maximum penalty that the Board can impose is dismissal of the police officer from the Metropolitan Toronto Police Force.

Question

What if I want to complain about a police officer who does not belong to the Metropolitan Toronto Police Force?

Answer

Consult a member of the police force concerned, the local board of commissioners of police or the local municipal council. You may also contact the Ontario Police Commission, 25 Grosvenor Street, Toronto, Ontario M4A 2G9, telephone: 965-6071.

Question

What if I want to charge a police officer with a criminal offence or sue the police officer in the civil courts?

Answer

Your right to take either of these alternatives is not affected by this new complaints procedure.

You may charge a police officer with a criminal offence by attending at the office of a Justice of the Peace. For the office nearest you, telephone 965-7541.

If you want to sue a police officer, you should contact a lawyer.

All civil suits and some criminal charges must be started within six months of the date the incident occurred.

Question

Where can I get more information about the Metropolitan Police Force Complaints Project Act?

Answer

You can obtain a copy of the Act from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, telephone: 965-2054.

As well, you can telephone the Office of the Public Complaints Commissioner at 963-1141.

If you make a complaint, you will be given a document that sets out the procedures that are followed and your rights under the Act.

The Metropolitan Police Force Complaints Project Act, 1981, was proclaimed December 21, 1981. The project is funded by the Ontario Ministry of the Attorney General and the Municipality of Metropolitan Toronto.



The Office of the
Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: 963-1141

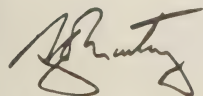
Help us make it work.

If you have a complaint against the Metropolitan Toronto Police Force a new, independent service is available to help you. This service, headed by a civilian commissioner, is designed to resolve disputes between the police and the public they serve and protect.

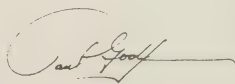
Under the new law, passed by the Ontario Legislature, you can:

- Lodge a complaint directly with the office of the Public Complaints Commissioner.
- Get a written interim report on the status of the complaint if it is not resolved within thirty days.
- Get a final written report at the conclusion of the investigation.

The commissioner may direct a completely independent investigation into your case. If the commissioner considers it in the public interest, he may order a full public hearing before a civilian review board.




R. Roy McMurtry
Attorney General




Paul Godfrey
Metropolitan Toronto
Chairman

The Commissioner

He's Sidney Linden, Q.C., former general counsel to the Canadian Civil Liberties Association and Vice-President of the Criminal Lawyers Association and a citizen with a strong social conscience. He is the newly appointed independent Public Complaints Commissioner and his responsibility is to review all complaints against the police.

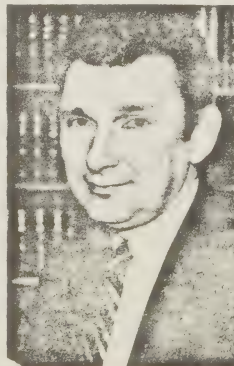
"I have the highest regard for him as a civil libertarian and for his appointment... He is a most credible person and an excellent lawyer." - Dr. Dan Hill, Special Adviser to the Mayor's Committee on Race and Community Relations, Toronto.

"I for one, have great confidence in Mr. Linden." - Alan Borovoy, Canadian Civil Liberties Association.

"...His reputation is excellent and completely acceptable." - Robert Nixon, Liberal M.P.P. and former Opposition Leader.

"The Council feels that Mr. Linden is a very capable criminal lawyer and will discharge his responsibilities with great awareness and with fair dealing." - Multicultural Council in Greater Toronto.

The system is set up to work for you. You have a personal contact. The essential ingredient is you. Help us make it work. For information please call 963-1141.



For 1st Annual Report (1981/82) see:
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**SECOND
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD**

1983



**SECOND
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD**

December 21, 1982 to December 20, 1983



June, 1984.

The Honourable R. Roy McMurtry, Q.C.,
Attorney General for Ontario,
Ministry of the Attorney General,
18 King Street East,
TORONTO, Ontario.

Dear Mr. Attorney:

Pursuant to Section 3(3) of the Metropolitan
Police Force Complaints Project Act, 1981, I am
pleased to enclose herein the Second Annual Report
of the Office of the Public Complaints Commissioner
and the Police Complaints Board.

Yours very truly,

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

SBL/kc

Office of the Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: (416) 963-1141

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Sidney B. Linden, Q.C.

June, 1984.

MESSAGE FROM THE COMMISSIONER

The Metropolitan Police Force Complaints Project Act, 1981, created a three-year pilot project that was designed to improve police/community relations by ensuring that police complaints are dealt with openly and fairly. The public interest in the complaint process was recognized by introducing extensive civilian participation and decision-making, thus making the police force more accountable to the community it serves, while continuing to place day-to-day responsibility for discipline on the police force itself.

Our first year was primarily devoted to setting up the office, establishing routines and procedures, and beginning our monitoring of the police complaint process. Relatively few reviews were done in that year, as few complaints had reached the review stage. In our second year, the system began to mature and function as it was designed. Further, the structures that are now in place provide the office with a solid foundation upon which to build.

The importance of an effective complaint system to both the public and the police force cannot be overemphasized. It is an avenue for constructive criticism that can be seen to produce change where change is necessary. Such a system is essential in

Office of the Public Complaints Commissioner

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order to maintain public trust in and respect for the police. It engenders community support and facilitates police/citizen co-operation, an element vital to the force's ability to achieve its goals. It is also a very valuable management tool. It can assist police officials to identify problem areas in which increased training or direction is necessary. Furthermore, it can assist in identifying and correcting unclear or inappropriate police procedures.

To maintain an effective complaint system, there are three major areas that must receive on-going attention. First, the system must be credible. It must not only be, but must be seen to be fair, equitable and trustworthy to both complainants and police officers. It must provide members of the public with an effective avenue for redress of legitimate grievances against law enforcement officers and by the same token, ensure that the rights of an accused officer are protected. Secondly, the system must be visible. There must be efforts directed to making people aware of the existence of the system and of their rights under it. Finally, the system must be accessible. It must be kept as uncomplicated and understandable to the participants as possible.

It must be remembered that there will never be a situation in which people have no complaints about the police. Complaints from the public are a "fact of life" in police work. This is partly due to the nature of police work which is often concerned with control of people's behaviour in highly stressful situations. It is also due to the fact that some complainants are not, strictly speaking, concerned with misconduct, but rather with police procedures that they feel are no longer acceptable in the community. A police force is a public institution and, like other public institutions, it will always be under pressure to change in response to societal change. Consequently, the goals of a complaint system cannot include the elimination of complaints, although some preventative effect on certain types of problems can be anticipated.

In most cases of questionable conduct (as opposed to misconduct) discipline is not the answer. Rather, what is needed is suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job may prevent the problem from arising in the future.

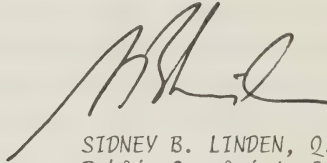
In more serious and deliberate types of misconduct, effective disciplinary action must be taken, with or without the educative measure described above. It is to be assumed that discipline will have a deterrent effect and thus be preventative of this type of misconduct.

This second annual report demonstrates how an agency such as ours can provide a useful and important role in contributing to good police/community relations. The sense of optimism and encouragement that we felt at the end of our first year has been maintained throughout our second year. Clearly, there are still many problems remaining, but that was one of the reasons the office was established as a pilot project in the first instance. We are continuing to improve and refine the system each day.

As in our first year, I would like to acknowledge the continuing support and co-operation of the Chief of Police, the Board of Commissioners of Police, the Police Association and many agencies, groups and individuals in the community far too numerous to mention.

Again, as in our first year, most of the statistics in this report have been presented without critical analysis. We are hopeful that in our triennial report we will have sufficient data to enable us to draw meaningful conclusions.

I wish to thank Dr. Ann Cavoukian of the Ministry of the Attorney General who continues to be responsible for directing the research for our office. I also wish to express my gratitude to each and every member of my staff. The success we have enjoyed has been a direct result of their dedication, ability and enthusiasm. All of us are looking forward to the challenges of the third year.

A handwritten signature in dark ink, appearing to read 'S. B. Linden', with a long, sweeping horizontal stroke extending to the left.

SIDNEY B. LINDEN, Q.C.,
Public Complaints Commissioner.

PART I
The Complaint Process

PART I - THE COMPLAINT PROCESS

In the first annual report of the Office of the Public Complaints Commissioner, a brief general outline of the new complaints system was given. In the past year, however, many people, both civilians and police officers, have expressed an interest in more complete information about exactly what goes on in the complaint process. To satisfy this interest, a more detailed description of the complaint process is set out here. Some of the issues that have arisen in making the system work and the approaches taken to these issues, will also be outlined.

A. FILING A COMPLAINT

A complaint against a Metropolitan Toronto Police Force officer may be filed at any police station, at the Public Complaints Investigation Bureau of the police force (hereafter referred to as the Bureau) or at the Office of the Public Complaints Commissioner (hereafter referred to as the P.C.C.).

Statistics based on closed cases during the first year of the project, (December 21, 1981 - December 20, 1982), indicated that 20% of complainants came to the P.C.C. office, 47.1% to police stations and 26.8% to the Public Complaints Bureau. In the second year (December 21, 1982 - December 20, 1983), 24.8% of complaints were filed at the P.C.C., 42.8% at police stations and 24.4% at the Bureau. The figures for the first quarter of 1984 show a considerable increase in the number of complaints filed at the P.C.C., with 40.7% of complaints being filed at the office.

When the complainant files a complaint there is a specific investigative process, detailed by regulation, that must be followed by the investigator. This process includes the taking

of photographs of any injuries or property damage and the preserving of any physical evidence (such as torn clothing, for example). The complainant is also interviewed as to the circumstances of the complaint, as are all other witnesses.

1. Accessibility

To be effective, a complaint system must be accessible, responsive and as uncomplicated as possible. Clearly, a complaint system characterized by rigid office hours and excessive "red tape" would be unusable by many people. With this in mind, efforts have been made to ensure that the P.C.C. office is approachable. The location of the office at Avenue Road and Bloor Street is close to major public transit. Extended office hours can be arranged, as needed. For those who have difficulty with the English language, translation services are available.

A 24-hour answering service is in use, and the Director of Investigations is notified of any urgent calls that come in on evenings and weekends. Commission investigators regularly travel to any complainants or police officers who find it difficult to come to the office.

When experience shows that an aspect of a procedure is causing difficulty, it is modified, or, if the procedure is necessary, efforts are made to explain it to the person's satisfaction.

2. Public Awareness

A primary goal in maintaining an effective complaint system is to educate people about the system. Both police officers and the general public should have a clear idea of how the system works. It would be unrealistic for anyone administering

a new law to expect people to immediately become aware of their new rights and how to exercise them. It is also fair to assume that most people feel slightly intimidated about dealing with any official agency. If people are to be expected to use a new system, it is clear that outreach and educational efforts are necessary.

Police officers, of course, are more knowledgeable about the new legislation, in a general sense, than most members of the public. The P.C.C. has conducted educational sessions at police stations and police colleges to explain the system. These efforts are continuing. The Commissioner has met with the Metropolitan Toronto Board of Commissioners of Police and the Ontario Police Commission to discuss the system.

In regard to the general public, efforts in outreach and education began early in the project and have increased in variety and intensity in the second and third year. On three occasions, the P.C.C. has produced an advertisement which was published in over 100 newspapers and in over 30 different languages. A poster, giving a brief explanation of the complaint system and a pamphlet describing the system, was made available to the general public through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto MP's and MPP's, aldermen/ controllers' offices, libraries, government bookstores, liquor stores, supermarkets, driver examination centres, licence issuing offices and other miscellaneous outlets. Copies were also distributed, at the outset of the project, through the Criminal Lawyers Association to all of its members, and were made available to every police officer in Metropolitan Toronto. Members of the P.C.C. staff have given interviews for television, radio and newspapers. As a result, articles about the work of the P.C.C. appeared in newspapers across Canada.

There was a great deal of media interest when the first public hearings by the Police Complaints Board were announced in the fall of 1982. At that time, the Commissioner conducted an information seminar for members of the media to assist in their understanding of the Act. Also, during the summer and early part of the fall of 1982, each individual or group that had appeared before or submitted a brief to the Justice Committee was invited to visit the P.C.C. office. Representatives from many of the groups attended, and the Commissioner was able to explain how the system works and discuss their various concerns.

The first Annual Report of the office of Public Complaints Commissioner has been in great demand by community groups and agencies, and by police complaints systems existing or planned in other jurisdictions. Furthermore, the office has had a number of requests for information from high school law teachers. P.C.C. staff have spoken to over 50 groups of high school students. The P.C.C. has also produced an educational tape for the Dial-A-Law program of the Law Society of Upper Canada. Those requesting information from the program are provided with information from the tape.

In mid-1983, the P.C.C. instituted a series of meetings with ethnic associations, legal clinics and service agencies to explain the complaint system to community workers who might be referring complaints. In addition, the Commissioner has met with each of the mayors and city councils of Metropolitan Toronto to discuss the system. The Commissioner also sits on the newly established Council on Race Relations and Policing. This Council, which includes representatives from the police and the community, meets regularly to discuss ways of improving relations between the police and visible minorities in Metropolitan Toronto.

3. The Public Mischief Charge

One frequently repeated concern at the beginning of the project was that anyone whose complaint was unsubstantiated might be charged with public mischief. This offence, found in Section 128 of the Criminal Code of Canada, could in fact be charged against anyone who makes a false statement indicating that someone has committed an offence. The rationale of the offence is the deterrence of people who deliberately cause the police to waste time and public funds in investigating a false allegation.

The Criminal Code of Canada is, of course, federal legislation and therefore it is not possible to alter its application by means of provincial legislation, such as the Metropolitan Police Force Complaints Project Act, 1981. However, the Commissioner has maintained the view that it is inappropriate to lay a charge of public mischief arising out of a public complaint of misconduct unless clear guidelines are established.

Police officers have expressed concern that the filing of frivolous or vexatious complaints causes unnecessary embarrassment and inconvenience. While the Commissioner understands this concern, he takes the view that it is important that the filing of legitimate complaints should not be deterred by fear of a criminal charge. If people who have complaints come forward and are able to see the complaint properly dealt with, public confidence in the police force will be maintained.

It should be pointed out that the fact that a complaint is unsubstantiated is not in itself justification for the laying of a public mischief charge. Many allegations cannot be substantiated simply due to lack of available evidence. An essential element which must be proved before a public mischief

charge can succeed is the element of deliberate falsehood by the complainant with the intent to cause a police officer to conduct an unnecessary investigation. The circumstances under which a public mischief charge can be laid are limited to this type of situation.

Of 1,917 closed complaint cases monitored by the Public Complaints Commissioner from September 14, 1981 to December 20, 1983, 3 public mischief charges (representing 0.16% of all complaints) have been laid.

B. THE INVESTIGATION

Except in unusual cases, which are discussed below, the initial investigation into a complaint is done by the Public Complaints Investigation Bureau, a unit within the police force that is involved exclusively with complaints by members of the public.

Investigation by the Bureau must be done according to rules set out in a regulation. The regulation requires that:

- "4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.
5. All information and evidence obtained in the investigation shall be recorded and preserved.
6. The investigators shall endeavour to interview the person making the complaint and the police officer concerned and obtain written statements from them.

7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.
8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs.
9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.
10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.
11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.
12. Any information, notes or evidence, except physical evidence, that is required to be preserved under Sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of."

The new system also requires the Bureau investigator to send monthly summaries (referred to as "interim reports") of the investigation to the P.C.C., to the complainant and to the police officer concerned. Upon completion of the investigation, the complainant, the officer, and the P.C.C. receive a final report. These reports outline each step taken in the investigation, the witnesses interviewed, statements given, and a description and analysis of documentary and physical evidence obtained.

The P.C.C.'s civilian investigators are able to monitor the progress of the Bureau's investigation through reading the complaint form and interim and final reports. If it appears

that there has been an oversight, further investigation can be requested. Often the P.C.C.'s investigators are able to resolve the matter by communicating with the Bureau by telephone. This informal method of dealing with issues has proved very effective. However, sometimes requests for additional information are made in writing. In all cases, the P.C.C.'s requests for information have been complied with by the Bureau.

There is provision in the Act for P.C.C. investigators to investigate a complaint from the outset in certain circumstances. On occasion, the Chief of Police has asked the P.C.C. to undertake the initial investigation. This occurred, for example, in the Morrish Road investigation described later in this report. From time to time, the complainant has been unwilling to speak to the officers of the Bureau. In these cases, the P.C.C. assumed the investigation of the matter when the Bureau completed its investigation to the extent that it was able. This occurred, for example, in the Jane/Finch and Regent Park complaints, discussed later in this report.

1. Who Should Investigate Complaints?

Some critics of the Metropolitan Police Force Complaints Project Act, 1981, have argued that there is an inherent conflict of interest when police officers investigate complaints against fellow police officers. Some people mistrust the ability of a police officer to be objective in these circumstances. At the other extreme, some members of the police community may not trust an investigation done entirely by civilian investigators.

After considerable research into other police complaint systems, a compromise was proposed for Metropolitan Toronto in which the independent civilian agency (the P.C.C.) would do the initial investigation in special cases defined by the Act. It

was considered that this power, together with the power to monitor the police investigation and to review and re-investigate the entire matter on the request of the complainant, would afford a workable balance.

The P.C.C. has studied public complaint systems in other jurisdictions and found that in every case where the police force was excluded from the process, the system failed. When such systems were instituted the police force's reaction manifested itself in battles over procedural issues, such as the right to subpoena officers, that brought the systems to a standstill. In the final analysis, these systems proved to be counter-productive and were terminated. The New York and Philadelphia systems as they existed in the 1960s are examples of this.

In order to effectively manage the police force it is essential that the police themselves be involved, to some extent, in the investigation of complaints. By having the police make the initial decision as to disposition in all cases, they can "clean their own house" and be seen to do so, thus fostering positive police/community relations. At the same time, the system is seen to be credible by police officers.

The recent history of the issue in Metropolitan Toronto indicates that a complete exclusion of civilians from the process is not a viable option and that civilians have proved to be effective in investigations. A certain amount of co-operation from the police force, however, is essential to the functioning of a police complaints system. This support would be most difficult to maintain if the police were excluded entirely.

The P.C.C. has as much or more civilian participation than any other complaint system the P.C.C. has studied. At the same time, this system affords the police the first opportunity to

respond appropriately to citizen complaints, thus involving them in the process and preventing the polarization, confrontation and failure that was experienced in some jurisdictions.

C. RESOLUTION OF COMPLAINTS BY THE POLICE

There are two ways in which a complaint is resolved by the police force - informal resolution, and resolution through a formal decision by the Chief of Police.

Often a complaint can be resolved to the complainant's satisfaction through an informal settlement. This can happen, for example, where the complaint arose out of a misunderstanding that can be explained, or where a police officer is willing to admit to misconduct such as discourtesy and to apologize to the complainant. From December 21, 1982 to December 20, 1983, 28.3% of complaints were resolved informally by the Bureau.

The informal resolution is an appropriate way to resolve a complaint, as long as the complaint does not involve serious misconduct, and as long as the complainant has been adequately informed of his or her right to have the matter investigated further and formally resolved, and is truly content not to do so.

As indicated above, the other way in which complaints are resolved by the police force is through a decision by the Chief of Police. The Act permits the Chief of police to delegate this responsibility. At present, this duty has been assigned to a Deputy Chief of Police.

On receipt of the final report of the investigation, the Chief's designate must make a decision as to what, if any, action will be taken by the force in response to the

complaint. Action by the police force can be summary discipline, Police Act charges, criminal charges or a Police Complaints Board hearing. The Chief's designate must state his or her decision in writing, and give reasons for it. A copy of the decision is sent to the complainant, the officer and the P.C.C.

D. REVIEW BY THE P.C.C.

If the complainant is not satisfied with the decision of the Chief of Police's designate, he or she may request a review by the P.C.C. The complainant is informed of this right in the letter from the Chief's designate, and in the form given to every complainant when the complaint is filed.

As the P.C.C. becomes better known in the community, requests for review are increasing. In 1982, (December 21, 1981 to December 20, 1982), there were 45 requests. In 1983, this number increased to 74. While a request for review indicates dissatisfaction with the decision of the Chief of Police, this increase can also be interpreted positively as indicating an increased awareness of the new system and a willingness to use it.

A review involves an analysis of the initial investigation, with further investigation where necessary. In an appropriate case the P.C.C. may attempt to settle a complaint informally. In cases where settlement is inappropriate, the Public Complaints Commissioner must decide whether it would be in the public interest to hold a Police Complaints Board hearing in the matter. If it is not a case for a public hearing, a review report is written.

Situations in which review reports are written cannot be described exhaustively, due to the many considerations which arise in determining "the public interest." Each case is

decided on its own facts. However, some examples can be provided. Review reports have been written in the following situations:

- (a) Where the officer's conduct was based on an understandable misinterpretation of the law;
- (b) Where the officer believed that he or she was acting according to police policy or procedure, but in fact did not do so because of a misunderstanding of police policy or procedure;
- (c) Where the officer was acting reasonably and legally;
- (d) Where there is insufficient evidence to go to a Board hearing.

Examples of the situations listed above, based on actual cases, are the following:

- (a) Mr. A, a photographer at a public demonstration, was inside a barricaded area that several police officers were trying to keep clear. He was arrested, taken to a police station and told that he was being charged with breach of the peace. He was detained for several hours and subsequently released, no charges having been laid. Mr. A complained that the police had tried to broaden their powers in clearing an area by resort to a "breach of the peace" charge. He complained. When the Chief of Police declined to take action, Mr. A asked for a review.

On review, it was clear that the officers had followed Force policy and had acted according to their honest belief that in the circumstances, they were justified in arresting Mr. A for "breach of the peace". The Commissioner therefore felt that it was not in the public interest to order a hearing. However, he produced a review report that canvassed the fairly unclear legal area of "breach of the peace." The Commissioner came to the conclusion on a review of the law that breach of the peace, itself, is not a criminal offence, although numerous criminal offences can be included within the meaning of the term. Therefore, it appears that the law may not in fact give the police the power to arrest or detain a person for "breach of the peace".

The review report concluded with a recommendation that the Ministry of the Attorney General and the Police Force should review the state of the law concerning "breach of the peace" with specific emphasis upon powers of arrest. Until such a study was completed and some conclusion reached, the Commissioner recommended that the Metropolitan Toronto Police Force should not arrest or detain anyone for breach of the peace in the absence of evidence of a specific offence for which the person could be arrested.

The recommended review of the law was done, and the police guidelines now include instructions advising officers not to arrest for breach of the peace unless violence, or apprehension of violence, is involved.

- (b) Mr. B was a passenger in a car when the driver of the car was stopped on suspicion of impaired driving. The arresting officer wished to take the driver of the car to the station for a breathalyzer test in the police vehicle. Mr. B entered the police vehicle with the intention of accompanying the driver of the car to the station. The police officers asked him to leave the car. One of the officers informed Mr. B that the police insurance policy had no provision for coverage in case of injuries to persons not under arrest, who are transported in police vehicles.

Mr. B declined to leave the car because he wanted to give moral support to the driver. A police officer several times requested Mr. B to leave the car, and after subsequent refusals, pulled Mr. B out of the car. Mr. B considered this action an assault, filed a complaint under the Act, and when the Chief's designate declined to take action against the officers, he requested a review of the matter.

On reviewing the evidence, the Commissioner decided that the police officer had had a right in law to remove the complainant from the police car. However, investigation revealed that the police insurance policy does cover passengers other than arrested persons. The Commissioner affixed a recommendation to the review report, advising that the terms of the insurance policy be reviewed with the officers.

- (c) Mrs. C's son was involved in a minor car accident that resulted in damage to another vehicle. When an officer arrived on the scene to investigate the situation, the officer directed the son to sit in the back of the police cruiser to answer some questions relating to the incident. Mrs. C wished to sit with her son, but was told to stay out of the cruiser, as the officer planned to talk to her separately. Mrs. C considered this action unreasonable and lodged a complaint. When the Chief's designate indicated that no action was warranted, Mrs. C asked for a review.

On review, the Commissioner determined that the police officer had been acting both legally and reasonably in separating witnesses to an event being investigated, so that she could take independent accounts of the event from each witness. He expressed his understanding that family members might wish to morally support another member of the family who was being questioned by police. However, he explained that there were sound reasons for the separation of witnesses, and concluded that no action was warranted.

- (d) Ms. D was arrested on a shoplifting charge. She alleged that at the station the investigating officer shoved her roughly into a chair, and insulted her. In response to her complaint, the Chief's designate decided that no action was warranted. Ms. D requested a review by the P.C.C.

In the review report, the Commissioner outlined all the investigative steps that had been taken, all the evidence that had been considered, and what the various people involved had to say about the incident. In summing up, it was evident that Ms. D had had no physical injuries, and that both the investigating officer and another officer witnessing the investigation denied using or hearing any insulting language. The review report concluded by explaining the nature of evidence that would have to be present before the Police Complaints Board could make a finding. It was explained that there is no presumption of credibility on the part of either complainant or respondent officer.

Where evidence reduces to the officer's word against the complainant's, and thorough investigation fails to disclose any other evidence, it is unlikely that the Commissioner would consider it in the public interest to order a Police Complaints Board hearing. However, lack of confirming evidence would not in all cases preclude the calling of a Board hearing; each case must be decided on its own merits.

Review reports contain an exhaustive explanation of the nature of the allegation, the witnesses contacted, the evidence considered and any other investigative steps that were taken. In all cases where a witness' version of events contradicts that of the complainant, the complainant is informed about the contradiction and asked to comment. If the Commissioner decides that no action is warranted, the decision is explained. If a change in police policy or procedure is recommended, the recommendation is set out in detail.

The recommendations made in review reports can have a preventative function; for example, when a complainant's difficulty was with police policy rather than police misconduct, or when the officer displayed only minor misconduct or simply questionable conduct. When the problem might be prevented in future by a change in or clarification of policy, this can be recommended in a review report. If there is very minor misconduct or simply questionable conduct, a report may recommend suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job, may prevent the problem from arising in the future.

1. The Complainant Who Does Not Request a Review

The Act allows the Public Complaints Commissioner to review a complaint when the complainant involved requests such a review. This can be problematical if the complainant declines to request a review because he or she did not understand the rights given by the Act, or simply became discouraged by the process. The P.C.C. has tried to prevent this problem from arising through public education and outreach efforts described elsewhere in this Report.

2. The Complainant Who Does Not Want A Public Hearing

On occasion, there are cases in which a review is done and the Commissioner finds that a public hearing is warranted, but the complainant does not wish to participate in a public hearing. An example of this type of situation, based on an actual case, is the following:

Mr. E was the father of a 12 year old boy who had been arrested by the police on a charge of careless driving, for driving a motorized go-cart on the sidewalk. After investigation by the Bureau, the Chief's designate concluded that the arresting officers had acted improperly in not leaving the house when requested to so do by the homeowner and in removing the boy from the home without shoes or a jacket. The complaint was sustained, and the officers were counselled by the Chief's designate.

Mr. E was not satisfied with the penalty imposed by the Chief's designate and requested a review by the P.C.C. On review, the Commissioner determined that the case warranted a hearing in the public interest. However, when Mr. E was informed that there would be a public hearing, and his son would have to testify, he stated that he did not wish a hearing to be held.

In this case, it was open to the Commissioner to subpoena both father and son, requiring them to testify at a public hearing. However, after considering all the circumstances of the case, the Commissioner decided that it was not in the public interest to do so.

E. POLICE COMPLAINTS BOARD HEARINGS

After reviewing a case on the request of a complainant, the Commissioner may call a public hearing if he considers it to be in the public interest to do so. As of December 21, 1983, there had been six completed Board hearings; one other was pending. Five hearings were ordered by the Commissioner on the basis of a complaint which came to the P.C.C. office for a review. One was an appeal by an officer of his conviction in an internal police hearing conducted as a result of charges under the Police Act.

In one of the six completed hearings, the Board found the complaint substantiated. The disciplinary penalty imposed by the Board was a two week suspension without pay. In another of the six, the case of the officer who appealed his conviction under the Police Act, the penalty imposed, a demotion in rank, was confirmed. The other four complaints were dismissed after a hearing.

Hearings by the Police Complaints Board are open to the public and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply. In his capacity as Chairman of the Police Complaints Board, the Commissioner appoints a panel to hear the case, and appoints a counsel for the Board. It is the function of counsel for the Board to ensure that all relevant evidence is heard by the Board and that any party who is not represented has his or her evidence properly put before the Board.

By some standards, the number of Board hearings ordered may seem small, relative to the number of complaints received. However, a comparison based on the number of complaints received is somewhat deceptive. It is important to note that, ordinarily, a Board hearing can only be called pursuant to the complainant's request for review of the case by the P.C.C. Between December 21, 1981 and December 20, 1983, 119 complainants requested a review.

Of these 119 cases, 86 reviews were completed by December 20, 1983. Of these 86, 8 cases were informally resolved by the Commissioner. A further 10 cases were withdrawn by the complainant. In 63 cases, the Commissioner decided that it was not in the public interest to hold a hearing and wrote a review report, with or without recommendations. In the remaining 5 of the 86 reviews, the Commissioner ordered a Board hearing, and the hearing was completed. In addition, five hearings were ordered but not completed during this time. Between December 20, 1983 and June 1, 1984 an additional four hearings were ordered by the Commissioner.

Altogether, between December 21, 1981 and June 1, 1984, a total of seventeen hearings have been ordered. Fourteen were ordered by the Commissioner, and two by the Chief's designate. One was an officer's appeal of his conviction under the Police Act.

1. Penalties

There has been some comment in the media in regard to the penalty handed down by the Board in the first Board hearing where a police officer was found guilty of misconduct. One Globe and Mail editorial referred to the penalty assessed in this case as "uncommonly light." The Toronto Star referred to the same case as a "tap on the officer's wrist." In the case

referred to, an officer was found to have assaulted a hand-cuffed prisoner in a police station. After hearing lengthy submissions as to penalty, the Board imposed a suspension without pay for two weeks. The penalty is being appealed by the complainant to the Supreme Court of Ontario. The subject officer is appealing the Board's finding of misconduct.

2. Disciplinary Penalties vs. Criminal Charges and Civil Suits

The justice system offers several different avenues for those who feel that they have been improperly treated by the police. Each avenue offers different advantages.

The Metropolitan Police Force Complaints Project Act, 1981 provides the only system whereby a citizen who complains of police misconduct may be afforded a public hearing before an adjudicator who can impose discipline on a police officer if misconduct is found. However, it is important to note that the Metropolitan Police Force Complaints Project Act, 1981 does not provide the only remedy. It remains possible for a citizen who alleges misconduct to sue the police officer and the Police Force, or to lay criminal charges. Either or both of these routes can be followed before, after, or during the processing of a complaint through the complaints system. Some complainants do use more than one of the avenues provided by the justice system, since the Police Complaints Board has no power to impose criminal penalties such as incarceration, or financial awards such as money for damages suffered.

PART II
Other Significant Activities

PART II - OTHER SIGNIFICANT ACTIVITIES

A. PRE-PROCLAMATION CASES

The First Annual Report of the Office of the Public Complaints Commissioner referred to three cases in which complaints were reviewed before the proclamation of the Act. Had the Act been in force, the Commissioner might have ordered a Police Complaints Board hearing. Since the P.C.C. had no jurisdiction to order a hearing, these cases were referred to the Metropolitan Toronto Board of Commissioners of Police. The Public Complaints Commissioner attended before the Board of Commissioners and requested that they conduct hearings in these three cases. The Board of Commissioners acceded to this request and hearings were held. The findings in these hearings were made during the 1983 reporting year.

In one case, the Board of Commissioners recommended that criminal charges be laid. In the second case, an outstanding civil suit was settled with a monetary award and a written apology to the complainant. In the third, internal disciplinary action was taken.

B. SPECIAL ACTIVITIES

Since its inception, the Office of the Public Complaints Commissioner has been called upon in several cases to intervene in situations that involve not only complaints by individuals against members of the Police Force, but more widespread and generalized malfunctions in police/community relations. The situation may involve public reaction to a particular incident, or it may be part of complicated and long-standing problems, including, but not limited to, police/community relations.

In responding to requests for intervention in these larger and more complicated police/community problems, the P.C.C. endeavours to serve a preventative function. Depending on the situation, the P.C.C. may be called upon to investigate a series of individual complaints, to recommend changes in specific police procedures, to mediate between police and community, or to refer a community to other appropriate agencies in response to specific problems that relate to but are not primarily involved with police complaint issues.

Four large-scale problem situations have been dealt with by the P.C.C. between its inception and December 21, 1983. They are briefly summarized as follows:

1. Hold-Up Squad Investigation

On October 22, 1981, at a meeting of the Metropolitan Board of Commissioners of Police, letters from seven Toronto criminal lawyers were tabled. Each of the letters contained allegations that one or more persons had been assaulted by officers from the Hold-Up Squad of the Metropolitan Toronto Police Force. The lawyers called for a public inquiry into these very serious allegations.

There was considerable media attention to the allegations and in November, 1981, the President of the Ontario Criminal Lawyers' Association wrote to the Attorney General of Ontario to demand a public inquiry. Further support for a public inquiry came as a result of a petition to Amnesty International sent by 73 Toronto criminal lawyers in November, 1981. Amnesty International wrote to the Attorney General in January 1982 urging that a public inquiry be constituted to examine the complaints. The Attorney General responded to these requests by referring the matter to the Public Complaints Commissioner.

The Commissioner met with representatives of all the parties concerned and obtained their agreement to his proposals regarding procedures for investigation. He then reviewed the police force's internal investigation, which had commenced in October, 1981. Since the police force's special investigative team had not received much cooperation from the complainants and their counsel, the P.C.C. undertook further investigation into all the allegations. As agreed with the representatives of all the parties involved, the Commissioner proposed to adhere as closely as possible to the procedures outlined in the newly proclaimed Metropolitan Police Force Complaints Project Act, 1981, although the powers under the Act were not available, since the complaints had arisen before the Act had become law.

Investigation by the P.C.C. commenced in March, 1982. Extra office space and resources were obtained through a special budget from the Ministry of the Attorney General. Transcripts of all relevant trials in the matter were obtained and summaries were made of the testimony of each witness. Other documents, including reports of arrest, use of force reports, police occurrence reports, police officers' notebooks, prisoner records, police vehicle logs, and formal typed statements, were examined. Police and civilian witnesses who were interviewed included Hold-Up Squad officers, all other police officers who had contact with the complainants or were in the vicinity, the complainants, their friends and relatives, their counsel, and doctors who conducted medical examinations of the complainants. Since the complaints did not come under the jurisdiction of the Act, the Commissioner did not have the power to subpoena reluctant witnesses. However, when a witness was reluctant to be interviewed, information was obtained from other sources.

A separate file was opened for each complainant, subject officer and witness. Altogether, a total of 153 files were

opened. The information gathered during the investigation was collated and a system of cross-referencing was devised. Charts were prepared of investigative aids to pinpoint specific areas of concern and to assess uniformity or variation in the court testimonies of each witness.

The P.C.C. investigation was substantially completed in November, 1982, but the Commissioner decided to await the outcome of the trial of several of the complainants, at which some of the brutality allegations would be raised in court. The trial was unexpectedly lengthy, and did not conclude until December, 1983. However, considerable relevant evidence given under oath and subject to cross-examination was obtained, through the examination of parts of the trial transcript.

In April, 1984, the P.C.C. released a 150 page report of the Hold-Up Squad investigation to the public. The report described the investigation and discussed the issues raised by the information that was obtained. The individual complaints were briefly summarized in the report, which did not contain names of anyone involved because of concern about their civil rights. However, a 235 page summary of the information uncovered in each individual investigation was compiled and sent to the Ministry of the Attorney General for an opinion as to the possibility of criminal charges in certain doubtful cases. The conclusions of senior Crown Counsel was that there was insufficient reliable evidence to support the laying of criminal charges.

The issue of criminal charges did not end the matter. The P.C.C.'s report identified certain areas of police practice and procedure which were unsatisfactory. The Commissioner stressed the need for specific reforms in police practice and procedures that would act both as preventative measures against the occurrence of misconduct by police officers, and as a safeguard against unfounded allegations of misconduct. In all, 19

recommendations were included in the report:

- (i) POLICE OFFICERS SHOULD BE INSTRUCTED NOT TO COPY FROM FELLOW OFFICERS' NOTEBOOKS.
- (ii) POLICE OFFICERS WHO HAVE HAD SOME CONTACT WITH A SUSPECT IN CUSTODY SHOULD BE REQUIRED TO FULLY ACCOUNT IN THEIR NOTEBOOKS FOR THE PERIOD OF TIME DURING WHICH THE SUSPECT IS BEING INVESTIGATED.
- (iii) THE NOTEBOOKS OF ALL SPECIAL SQUAD OFFICERS SHOULD CONTAIN NUMBERED PAGES.
- (iv) THE PROCEDURE WHEREBY POLICE OFFICERS' NOTEBOOKS ARE SIGNED DAILY BY A SUPERVISOR SHOULD BE EXTENDED TO INCLUDE SPECIAL SQUAD OFFICERS. FURTHERMORE, THE NOTEBOOKS OF ALL SPECIAL SQUAD DETECTIVES WHO INTERVIEW A SUSPECT AT A POLICE STATION SHOULD BE SIGNED BY THE POLICE OFFICER IN CHARGE OF THE STATION FOLLOWING THE CONCLUSION OF THE INTERVIEW.
- (v) REPORTS WHICH ARE REQUIRED TO BE COMPLETED IN PROCESSING THE ARREST, CHARGE AND DETENTION OF A SUSPECT SHOULD INCLUDE THE TIMES AT WHICH THEY ARE COMPLETED AND THE DATE, AS WELL AS THE NAMES OF THE OFFICERS WHO HAVE ACTUALLY PREPARED THE REPORTS.
- (vi) THE OFFICER IN CHARGE OF THE STATION SHOULD MAKE FREQUENT CHECKS AS TO THE CONDITION OF PRISONERS BEING HELD AT THE STATION. THE OFFICER SHOULD BE REQUIRED TO COMPLETE A FORM DESIGNED TO RECORD INFORMATION RELEVANT TO THE CONDITION OF THE PRISONER IN CUSTODY, AT INTERVALS WHILE THAT PRISONER IS IN CUSTODY. THE FORM SHOULD BE DESIGNED TO RECORD INJURIES, CONTACT WITH POLICE OFFICERS, MOVEMENTS WHILE IN CUSTODY AND COMPLAINTS OF MISTREATMENT.

- (vii) ANY COMPLAINTS OR INJURIES SHOULD IMMEDIATELY BE INVESTIGATED BY THE OFFICER IN CHARGE OF THE STATION. A REPORT OF THIS INVESTIGATION SHOULD BE SUBMITTED BY THE OFFICER IN CHARGE TO HIS OR HER SUPERIOR OFFICER.
- (viii) IF A COMPLAINT IS MADE, A COPY OF THIS FORM SHOULD BE FORWARDED TO THE PUBLIC COMPLAINTS INVESTIGATION BUREAU ALONG WITH THE USUAL FORM FOR CITIZEN COMPLAINTS.
- (ix) THE OFFICER IN CHARGE OF THE POLICE STATION SHOULD BE IMPRESSED WITH HIS OR HER RESPONSIBILITY AND ACCOUNTABILITY FOR ANYTHING OCCURRING AT THE STATION UNDER HIS OR HER SUPERVISION.
- (x) MEMBERS OF ALL SPECIAL SQUADS SHOULD BE REMINDED THAT WHILE THEY ARE WORKING AT VARIOUS POLICE STATIONS, THE OFFICER IN CHARGE OF THE STATION HAS AUTHORITY OVER THEIR ACTIVITIES.
- (xi) WHERE A STRIP-SEARCH IS CONSIDERED NECESSARY, IT SHOULD BE CONDUCTED BY OFFICERS OTHER THAN THE OFFICERS WHO ARE INTERROGATING THE COMPLAINANT.
- (xii) THE RESPONSIBILITY FOR ENSURING THAT A STRIP-SEARCH HAS BEEN PROPERLY CONDUCTED SHOULD REST WITH THE OFFICER IN CHARGE OF THE STATION.
- (xiii) THE OFFICER IN CHARGE OF THE STATION OR ANY OFFICER INSTRUCTED BY THE OFFICER IN CHARGE SHOULD NOTE ANY INJURY SEEN ON THE PRISONER'S BODY AT THE TIME OF THE STRIP-SEARCH. ANY INJURIES SEEN AT THIS TIME SHOULD BE INVESTIGATED IMMEDIATELY BY THE OFFICER IN CHARGE OF THE STATION.
- (xiv) SUSPECTS SHOULD NOT BE DETAINED IN INTERVIEW ROOMS LONGER THAN NECESSARY. WHEN THE INVESTIGATION HAS BEEN COMPLETED THE SUSPECT SHOULD EITHER BE RELEASED OR TAKEN TO THE CELL AREA.

- (xv) A RECORD SHOULD BE KEPT BY THE OFFICER IN CHARGE OF THE STATION AND ALL MOVEMENTS OF A PRISONER TO AND FROM THE CELLS. THIS RECORD SHOULD CONTAIN THE NAMES OF THE PRISONER AND THE ESCORTING OFFICERS, AS WELL AS THE TIMES OF THE MOVEMENTS.
- (xvi) THE DESCRIPTION SHEET USED BY THE IDENTIFICATION BUREAU SHOULD BE AMENDED TO PROVIDE A SPACE WHEREIN RECENT INJURIES AND COMPLAINTS CAN BE NOTED.
- (xvii) ANY COMPLAINT WHICH IS BROUGHT TO THE ATTENTION OF IDENTIFICATION BUREAU OFFICERS SHOULD IMMEDIATELY BE REPORTED TO THEIR SUPERIOR. THE MATTER SHOULD ALSO BE REPORTED TO THE OFFICER IN CHARGE OF THE DIVISION WHERE THE ALLEGED MISCONDUCT OCCURRED.
- (xviii) DEFENCE LAWYERS SHOULD BE ADVISED THAT IF THEY NOTICE INJURIES ON THEIR CLIENTS, THEY SHOULD ENSURE THAT ANY EVIDENCE OF THESE INJURIES IS PROPERLY RECORDED AND PRESERVED.
- (xix) A PILOT PROJECT SHOULD BE ESTABLISHED TO IMPLEMENT THE USE OF VIDEO-TAPE RECORDING IN METROPOLITAN TORONTO. THE PROJECT SHOULD BE OF AT LEAST TWO YEARS' DURATION AND BE SUBJECT TO EVALUATION AT THE END OF THAT TIME.

A task force has been established to consider the implementation of these recommendations.

2. Morrish Road Investigation

On May 29, 1982, police were called to a party at 535 Morrish Road in Scarborough. By estimates of witnesses at the scene, the party numbered some 300-500 people. Fifty-three officers came to the scene in response to complaints, arriving at various times during the evening. After attempting to contain the situation for some time, the officers ordered the

party-goers to disperse and circled the property so that no more people could enter the house. At some point during the evening bottles were thrown at police officers and two officers ran toward the house. At this point, a number of officers converged upon the house and there was an altercation between the police and some party-goers. A CITY-TV photographer was present on the scene with a video camera and some of the incidents occurring were recorded on tape.

As a result of this incident, several people sued the police force for property damage and a number of people complained of assault by police. An investigation was commenced by the Police Complaints Investigation Bureau of the police force. The CITY-TV video tape, which was made available after being shown on television news, clearly showed that several officers were on the front lawn of the property as party-goers were leaving, and that some of these officers used their batons in an indiscriminate manner to strike some of the party-goers who were running from the area. The officers were not at that particular moment defending themselves from being assaulted, nor were they attempting to make an arrest. One officer was seen kicking out at several individuals, another officer was seen dragging someone who was on all fours, striking him with his baton and kicking him, and other officers were seen swinging their batons at individuals.

On August 12, Police Chief Jack Ackroyd asked the P.C.C. to take over the investigation in the matter. After some investigation of the allegations, it became evident that identification of the officers involved was going to be extremely difficult. In November, 1982, senior Crown counsel and senior police officers were asked to review the results of the investigation. They concluded that there was insufficient identification evidence to lay criminal charges or internal disciplinary charges.

Because of the high degree of public interest in the matter, the Commissioner decided to hold parts of the investigation in public. Preparation for the investigation included considerable effort by the P.C.C. investigators to get witnesses to the incident to come forward. Some witnesses eventually came forward and testified, during 13 days of public hearings.

The major problem at the hearing was identification of officers who may have been guilty of misconduct. Unfortunately, the CITY-TV video tape had been shot under extremely poor conditions, which limited its usefulness. This identification problem was further compounded by the fact that a number of the officers involved had removed their hats, which contained their identification numbers.

A number of methods of identification were tried; complainants reviewed pictures of the officers who were present at the scene, and watched the video tape at normal and slowed speed. In total the tape was shown some 150 times during the course of the public investigation. The police investigators had sent a copy of the video-tape to the Defence Research establishment in Valcartier, Quebec, to have experts there attempt to enhance it and get more detailed sharpness and clarity. However, due to poor quality, poor lighting and rain interference, the Defence Research establishment was unable to produce a better reproduction. Neither an enlarged version of the tape, nor still photographs made from the tape achieved sufficient quality to enable witnesses to identify particular officers.

A P.C.C. investigator went to Boston, Massachusetts to consult with the optical division of the ITEK Corporation, which assists in the analysis of space photography. Once again, an attempt was made to achieve more detailed sharpness and clarity, but this was not possible.

The police officers involved in the incident were not helpful in assisting the P.C.C. with identification. Some officers - those who appeared on the video tape in non-controversial activities - were identified by themselves or their colleagues, even though they were in the background or with their backs partially to the camera. However, no police witnesses identified officers in the act of striking any civilian complainant either from the video tape or from their recollection of events at the scene.

At the conclusion of the public investigation into the Morrish Road incident, no misconduct could be attributed to any particular officer, although it was clear that misconduct had occurred.

In summing up the investigation, the Commissioner made a public statement outlining the events under inquiry and giving a frank analysis of the problems with identification that had occurred. He also made nine recommendations for a police response to the incident. Some of these recommendations were aimed at ameliorating the situation. These included a public apology by the Chief of Police and the settlement of civil suits launched as a result of the incident. Other recommendations were aimed at prevention of similar incidents in the future and at implementing means of avoiding the identification problem by better police recording of crowd control situations. All the recommendations, which are listed below, were implemented by the police force:

- (i) THAT THE CHIEF OF POLICE, ON BEHALF OF THE METROPOLITAN TORONTO POLICE FORCE, PUBLICLY APOLOGIZE FOR THE EXCESSES OF THOSE OFFICERS SEEN TO BE ASSAULTING CIVILIANS.
- (ii) THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, APOLOGIZE, IN WRITING, TO EACH COMPLAINANT FOR THE INAPPROPRIATE MANNER IN WHICH SOME OFFICERS CONDUCTED THEMSELVES.

- (iii) THAT THE CHIEF OF POLICE, ON BEHALF OF THE FORCE, OFFER TO COMPENSATE THOSE COMPLAINANTS WHO CLAIM THAT THEIR PROPERTY WAS DAMAGED BY OFFICERS AND AGREE TO A FORMULA OR MECHANISM TO FACILITATE THIS WITHOUT HAVING TO RESORT TO THE CIVIL COURTS.
- (iv) THAT ALL OFFICERS BE INSTRUCTED TO COMPLY WITH EXISTING REGULATIONS WHICH REQUIRE THEM TO WEAR THEIR CAPS AND CAP IDENTIFICATION BADGES AT ALL TIMES WHEN DEALING WITH THE PUBLIC. THE ONLY EXCEPTION TO THIS SHOULD BE WHEN IN A POLICE BUILDING, WHEN DRIVING OR RIDING IN A MARKED POLICE VEHICLE OR IN SPECIAL CIRCUMSTANCES WHERE COURTESY DICTATES.
- (v) THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE AMENDED TO INCLUDE A PROVISION REQUIRING THAT THE DISTRICT COMMANDER BE INFORMED IMMEDIATELY OF A MAJOR INCIDENT AND THAT HE BE RESPONSIBLE FOR ENSURING THAT SUFFICIENT SUPERVISORY OFFICERS ATTEND TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.
- (vi) THAT THE CHIEF OF POLICE CONSIDER THE USE OF MITRE RADIO SETS OR OTHER SIMILAR ELECTRONIC EQUIPMENT AS A MEANS OF EFFECTIVE COMMUNICATION IN INCIDENTS INVOLVING LARGE NUMBERS OF OFFICERS AND THAT THE DISTRICT COMMANDER BE RESPONSIBLE FOR ENSURING THAT SUFFICIENT EQUIPMENT IS PROVIDED, IN ORDER TO PROVIDE PROPER DIRECTION AND ADVICE TO OFFICERS AT THE SCENE.
- (vii) THAT CURRENT OPERATIONAL PROCEDURES REGARDING MAJOR INCIDENTS BE CLARIFIED TO STRESS THAT ALL OFFICERS PRESENT ARE REQUIRED TO COMPLY WITH ALL THOSE INSTRUCTIONS FROM SUPERVISORY PERSONNEL AND THAT THOSE INSTRUCTIONS PRECLUDE INDEPENDENT ACTION. THE CIRCUMSTANCES IN WHICH INDEPENDENT ACTION IS JUSTIFIED SHOULD BE DEFINED WITH AS MUCH PRECISION AS POSSIBLE.

- (viii) THAT A "RECORDING OFFICER" BE ASSIGNED TO ALL MAJOR INCIDENTS TO KEEP A CURRENT LOG RECORDING ALL DETAILS OF INSTRUCTIONS GIVEN, ACTIONS TAKEN, DECISIONS MADE, OBSERVATIONS OF SUPERVISORY PERSONNEL AND ALL OTHER INFORMATION WHICH MAY BE PERTINENT TO A LATER REPORTING OF THE OCCURRENCE. THIS WOULD PLACE LESS RELIANCE ON THE INDIVIDUAL MEMORIES OR RECOLLECTIONS OF OFFICERS WHO MAY BE ACTIVELY ENGAGED IN THE OCCURRENCE.
- (ix) THAT EVERY OFFICER WHO WAS PRESENT AT MORRISH ROAD BE REQUIRED TO TAKE A REFRESHER COURSE ON CROWD CONTROL AND BATON TRAINING AND THAT THE CHIEF OF POLICE CONSIDER THE ADEQUACY OF THE AMOUNT OF IN-SERVICE TRAINING PRESENTLY GIVEN TO CONSTABLES.

3. Jane/Finch Initiatives

The Jane/Finch area of Toronto has been the subject of much debate concerning police/minority relations. The area in question is one of high density housing, with considerable problems in unemployment and race relations. There has also been considerable public concern in regard to the police force's relationship with the Jane/Finch community.

On November 12, 1982, the police force conducted a drug investigation in the Jane/Finch area which resulted in the arrest of 23 people. A number of Jane/Finch residents complained to the local Legal Aid clinic that the arrest had involved harassment, illegal searches and seizures, and other types of police misconduct. In response to a request from the Legal Aid clinic, two P.C.C. investigators attended on several occasions at the clinic to receive complaints. One complaint was received in relation to the November 12, 1982 drug investigation. Three other unrelated complaints were also

received. In addition, the P.C.C. assumed the on-going investigation into nine other complaints, based on incidents that had occurred on other dates.

In view of the public interest in the situation and the reluctance of the complainants to have any dealings with the police, the P.C.C. conducted part of the initial investigation into these complaints. The investigation of these complaints resulted in 50 civilians and 58 police officers being interviewed by either the Bureau or members of the P.C.C. staff. Essentially, Bureau investigators interviewed the police witnesses, and the P.C.C. investigators interviewed the civilian witnesses.

Of the 13 Jane/Finch complainants, 5 withdrew their cases. In one case the Deputy Chief of Police tendered an apology for the embarrassment caused by a street stop and questioning. In another case, the Deputy Chief of Police cautioned two constables about abuse of their power to search and to demand identification. In neither case did the complainant request a review of this decision.

In four cases, the Chief's designate found no action was warranted, and the complainants did not request review of this decision. In the two remaining cases, the complainant requested a review by the P.C.C.. In both cases, the Commissioner ordered Board hearings. The first case involved a complaint of an illegal search. After hearing all the evidence and submission of counsel, the Police Complaints Board reviewed the law in the matter and found that the officers had acted legally and reasonably. The second case was withdrawn by the complainant.

It should be noted that there have been other complaints coming from the Jane/Finch area since the November 1982 P.C.C. investigation. However, these complaints have been processed

through the complaints system without the need for intervention by the P.C.C. in the initial investigative stage. It would appear that the community, assisted by the legal aid clinic, has gained some degree of trust in the system, as evidenced by their willingness to use it compared to their refusal to have complaints dealt with by the police in 1982.

4. Regent Park Complaints

The Regent Park area of Toronto, like the Jane/Finch area, is a community characterized by low income, high unemployment, and relatively high density housing. For some years, there have been sporadic expressions of public concern in regard to police/community relations, among other problems in the area. Most recently, police/community relations problems began to escalate early in 1983 with a number of incidents, including allegations of beatings and racism. The Residents' Association in Regent Park formed a subcommittee called the Regent Park Committee Against Police Harassment. Members of this committee and representatives of agencies active in the area held a number of meetings to discuss the problems. Accompanied by an Alderman for the area and representatives of the Human Rights Commission, some Committee members approached the Superintendent of 51 Division, the Division in charge of policing the area, to put forward their concerns. However, the situation was not resolved, and thereafter, the Committee took the view that communication with the police force had proved futile and that efforts should be discontinued.

In October, 1983, the P.C.C. was advised by members of the Multicultural Relations Office of the Municipality of Metropolitan Toronto that a serious situation existed regarding police/community relations in Regent Park. Representatives of the P.C.C. got in touch with the Regent Park Tenants' Association and through them the Regent Park Committee Against Police Harassment. A meeting was arranged with the Committee

to inform them about the office of the Police Complaints Commissioner. Eventually 15 complaints were referred through the Regent Park Committee to the P.C.C. The complaints, which were filed in January, 1984, are going through the complaint system at present. Due to the complainant's reluctance to speak to police officers, the P.C.C. has conducted part of the initial investigation, and will be preparing investigation reports for each complaint.

At meetings with residents of Regent Park, a number of complaints emerged which had less to do with individual officers' misconduct, than with community dissatisfaction with specific police practices and procedures. In particular, there are complaints about general harassment and racism.

The Public Complaints Commissioner takes the view that problems in police/community relations are best solved by dialogue between the police and the community concerned. Since there appeared to be an impasse in communication between 51 Division and Regent Park residents, the Commissioner undertook to mediate between the residents and the police. With the agreement and support of the police force, the Aldermen in the area, the Race Relations Division of the Human Rights Commission, and the Regent Park Committee, meetings are currently taking place. The Commissioner's plan is to continue discussions of the situation and elicit suggestions for its improvement from both parties, to identify areas in which understanding might be reached and to bring the parties together, thereby facilitating communication and problem-solving between the residents and the Police Force. The P.C.C. is also consulting with agencies which might prove helpful in implementing solutions to the myriad problems involved in the situation. Excellent cooperation is being demonstrated by both Regent Park residents and the Police Force, and efforts to devise solutions continue.

C. RESEARCH

An extensive research program was designed at the inception of the project, to collect the maximum amount of information on the operation of the complaints system. The collection of research and statistics by the Public Complaints Commissioner is directed towards two aims -improving methods of processing public complaints against police officers and identifying patterns or trends with a view to being able to assist the management of the police force in taking preventative action.

1. Improving Methods of Processing Complaints

The P.C.C.'s research into methods of processing complaints involved two major activities: compiling data on systems used in other jurisdictions, and collecting information by way of research instruments designed to reflect the opinions and reactions of both police officers and complainants under the new system.

Through personal visits, written correspondence and attendance at conferences, the P.C.C. has now collected data on public complaints systems operating in over 25 other jurisdictions including other Canadian provinces, the United States, England, Australia, Bermuda, the Netherlands, Northern Ireland and Nigeria. Much of this data was compiled as part of the research undertaken before the present Act was drafted. However, the files are kept up to date through correspondence with the other jurisdictions.

A questionnaire was administered to all officers of the Metropolitan Toronto Police Force shortly after proclamation of the Act in order to gauge their impressions of the Commission and to enable them to air any concerns that they might have. All officers were sent a copy of this questionnaire and a covering letter informing them of its purpose. This resulted

in a 20% response rate, with 1,013 questionnaires completed and returned to the P.C.C. In addition, the Commissioner and P.C.C. staff take note of any observations made during their frequent contacts with police officers.

Another questionnaire was designed for distribution among all complainants. The purpose of this questionnaire is to gather information on the complainants' impressions of the complaints procedure, their satisfaction with the investigation and their feelings about the outcome. These are only a few of the numerous areas explored in the questionnaire.

The complainant questionnaire is sent to all complainants at the end of the complaint process; that is, after the complainant has received the Chief of Police's decision, or after review or Board hearing. 18.9% of complainants in the first year completed the questionnaires and returned them to the P.C.C.

2. Identification of Patterns and Trends in Complaints

In addition to the questionnaires mentioned above, the P.C.C. has developed a major research instrument for the purpose of gathering extensive data on each file. The Complaint Recording Form records information such as the date, time, location and police division of the occurrence; number and type of allegation; precipitating factors and injuries (if any) and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time period involved from one stage of the process to various other stages was also gathered in order to provide an indication of how efficiently the system is operating.

The recording of this and other information provides data that is likely to be extremely useful in assisting police management to identify areas where preventative measures are necessary, and has already begun to be used in this way.

Statistics extracted from the Complaint Recording Form are reviewed in the next section of this report.

PART III
Research and Statistics

PART III - RESEARCH AND STATISTICS

A. INTRODUCTION

Research data and statistics on all phases of the complaints procedure were gathered for the second year of operation of the P.C.C. from December 21, 1982 to December 20, 1983. All cases that were closed within that period are included in the present database. It should be noted that these statistics deal only with public complaints filed against police officers in the Metropolitan Toronto Police Force.

A total of 758 cases were opened in 1983, compared to 922 cases opened in 1982. Of the 1,039 cases that were open at some point during 1983,* 757 cases were closed (completed) by December 20, 1983; 258 cases remained open and 24 failed to develop.**

The 758 cases filed in 1983 represent an average of

* The 1,039 cases consist of 758 cases opened in 1983 plus 281 cases carried over from 1982, in which the investigations had not been completed that year.

** Cases that failed to develop were cases that included, among others, complainants who arranged meetings with investigators but failed to attend, complainants who failed to contact the Office or who did not respond to follow-up letters, and complaints that proved to be out of the jurisdiction of the P.C.C.

roughly 63.2 cases per month. The actual number of complaints that were filed each month is presented below.

	<u>No.</u>	<u>%</u>
January	81	10.7
February	62	8.2
March	63	8.3
April	71	9.3
May	67	8.8
June	52	6.9
July	63	8.3
August	65	8.6
September	69	9.1
October	46	6.1
November	56	7.4
December	<u>63</u>	<u>8.3</u>
TOTAL	<u>758</u>	<u>100.0</u>

Once a complaint case is completed, the closed file is forwarded to the Research Section and a Complaint Recording Form completed. The Complaint Recording Form is designed to obtain maximum information from each complaint case filed, such as: the date, location and police division of the occurrence; number and type of allegations; precipitating factors and alleged injuries, and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages is also gathered in order to provide an indication of how efficiently the system is operating.

B. RESEARCH FINDINGS GATHERED FROM COMPLAINT
RECORDING FORMS

The statistics collected from the Complaint Recording Form for cases closed between December 21, 1982 and December 20, 1983 will be presented below. This database of closed cases consists of a total of 757 cases.

1. Where Complaints Filed

The majority of the complaints were once again filed at a police station (42.8%); 24.8% were filed with the Public Complaints Commissioner; 24.4% were filed with the Public Complaints Investigation Bureau; 5.8% were filed with the Chief of Police. 1.3% of the complaints were filed with the Ontario Police Commission, while another 0.3% were filed with the Attorney General and detention centres, respectively.

Roughly one-quarter of all the complaints filed (24.8%) were filed with the P.C.C. This figure represents an increase of 5% from last year's figure of 20%. Thus, it would appear that word of the office is spreading. These data may be found in Table 1.

14.1% of the complaints were filed by letter while 85.9% were filed in person.

2. Time and Date of Complaint Incident

A slightly higher number of complaint incidents appeared to occur over the weekend -- from Friday to Sunday, which accounted for roughly half of all complaint occurrences (47.7%). There was a relatively equal

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	<u>No.</u>	<u>%</u>
POLICE STATION	324	42.8
PUBLIC COMPLAINTS COMMISSIONER	188	24.8
PUBLIC COMPLAINTS INVESTIGATION BUREAU	185	24.4
CHIEF OF POLICE	44	5.8
ONTARIO POLICE COMMISSION	10	1.3
ATTORNEY GENERAL	2	0.3
DETENTION CENTRE	2	0.3
OTHER	<u>2</u>	<u>0.3</u>
 TOTAL CASES	 <u>757</u>	 <u>100.0</u>

distribution of occurrences on the remaining days ranging from 12% to 14% per day. The full list of the days of the week and the respective number of complaint incidents taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, vary considerably from the days on which the complaints actually occurred. The variance between occurrence date and the filing date is attributable to the fact that relatively few complaints (28.3%) were filed on the same day as the date of the complaint incident. The most frequent days on which complaints were formally lodged were at the beginning of the week from Monday to Wednesday -- accounting for 56.2% of all complaints filed. Relatively few complaints were filed on Saturdays and Sundays. These data may be found in Table 3.

With respect to the time of day at which a complaint incident occurred, roughly 60% of the incidents leading to complaints took place between 6 p.m. and 3 a.m. (58.3%). The one time period which accounted for the greatest number of total occurrences was from midnight to 3 a.m. -- 26.9% of all occurrences took place during this time period. The complete list of time of occurrences is presented in Table 4.

3. Time from Date of Occurrence to Date of Filing

The number of days from the date a complaint incident took place to the date the complaint was actually filed averaged 12.8 days. This figure is somewhat misleading, however, since over two-thirds of the complaints (68.6%), were filed within one week of the occurrence: 28.3% of the complaints were filed on the same day as the date of the occurrence, while 17.3% were filed on the next day.

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	<u>No.</u>	<u>%</u>
MONDAY	94	12.8
TUESDAY	89	12.1
WEDNESDAY	104	14.1
THURSDAY	98	13.3
FRIDAY	103	14.0
SATURDAY	112	15.2
SUNDAY	<u>136</u>	<u>18.5</u>
 TOTAL CASES	 <u>736*</u>	 <u>100.0</u>

* NOTE: When the total of the "number" column is less than the actual total for the database (757), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure.

TABLE 3

DAY COMPLAINT FILED

	<u>No.</u>	<u>%</u>
MONDAY	140	18.4
TUESDAY	153	20.2
WEDNESDAY	133	17.6
THURSDAY	121	16.0
FRIDAY	108	14.3
SATURDAY	43	5.7
SUNDAY	<u>59</u>	<u>7.8</u>
TOTAL CASES	<u>757</u>	<u>100.0</u>

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	<u>No.</u>	<u>%</u>
12:01 A.M. TO 3:00 A.M.	189	26.9
3:01 A.M. TO 6:00 A.M.	48	6.8
6:01 A.M. TO 9:00 A.M.	27	3.8
9:01 A.M. TO NOON	67	9.5
NOON TO 3:00 P.M.	61	8.7
3:01 P.M. TO 6:00 P.M.	91	12.9
6:01 P.M. TO 9:00 P.M.	92	13.1
9:01 P.M. TO 12:00 P.M.	<u>129</u>	<u>18.3</u>
TOTAL CASES	<u>704</u>	<u>100.0</u>

11.9% were filed two to three days later, while another 11.1% of the complaints were filed four to seven days after the occurrence. The data on the number of days from the date of occurrence to date of filing is presented in Table 5.

4. Month of Occurrence

No discernible pattern was found with respect to the month in which complaint incidents occurred. There was a fairly equal distribution of occurrences over the 12 months of the year, with the exception of the month of May, which yielded the highest number of occurrences (12.2%). With the exception of May, the remaining months average 8.0% of the occurrences, ranging from 6.1% to 9.7%. The high number of occurrences in the month of May is accounted for by the fact that the Morrish Road incident, which involved a large number of complaints, occurred during this month. These data are presented in Table 6.

5. Location of Complaint Incident

52.4% of the incidents that led to the lodging of complaints against the police took place on the street. The next most frequent location was at a residence (19.6%). In order of declining frequency, incidents also occurred in: police buildings (13.0%), public buildings (10.6%), plazas or malls (1.6%), school yards (1.5%), and police vehicles (0.8%). The complete list of locations of occurrences leading to complaints may be found in Table 7.

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	<u>No.</u>	<u>%</u>
SAME DAY	209	28.3
1 DAY	128	17.3
2-3 DAYS	88	11.9
4-5 DAYS	48	6.5
6-7 DAYS	34	4.6
8-14 DAYS	61	8.3
15-21 DAYS	44	6.0
22-30 DAYS	38	5.2
31-45 DAYS	23	3.1
46-60 DAYS	14	1.9
61-90 DAYS	11	1.5
OVER 90 DAYS	<u>40</u>	<u>5.4</u>
 TOTAL CASES	 <u>738</u>	 <u>100.0</u>

\bar{X} DAYS = 12.8

TABLE 6

MONTH OF OCCURRENCE

	<u>No.</u>	<u>%</u>
JANUARY	66	8.8
FEBRUARY	63	8.3
MARCH	46	6.1
APRIL	57	7.6
MAY	92	12.2
JUNE	48	6.4
JULY	57	7.6
AUGUST	73	9.7
SEPTEMBER	68	9.0
OCTOBER	56	7.4
NOVEMBER	67	8.8
DECEMBER	<u>61</u>	<u>8.1</u>
TOTAL CASES	<u>754</u>	<u>100.0</u>

TABLE 7

LOCATION OF COMPLAINT INCIDENTS

	<u>No.</u>	<u>%</u>
STREET	395	52.4
RESIDENCE	148	19.6
POLICE BUILDING	98	13.0
PUBLIC BUILDING	80	10.6
PLAZA OR MALL	12	1.6
SCHOOLYARD	11	1.5
POLICE VEHICLE	6	0.8
OTHER	<u>4</u>	<u>0.5</u>
TOTAL CASES	<u>754</u>	<u>100.0</u>

6. Police Divisions Involved in Complaints

The Police Division with the highest incidence of complaints was once again 52 Division, which accounted for 16.2% of all the complaints lodged. 55 Division had the next highest incidence with 9.4% of all complaints, followed by 14 Division with 8.4%. 31 Division accounted for 7.9% of all complaints while 43 Division accounted for 5.6% and 41 Division for 5.4%. The remaining Divisions all had 5.0% or fewer complaints lodged against their police officers. The full list of Police Divisions in which complaints occurred may be found in Table 8.

In an attempt to account for the rather high incidence of complaints arising out of 52 Division, one may again point to its location in the downtown core where there is considerably more activity than in other areas. The high number of contacts that officers of this Division have with the public could also contribute to a greater number of complaints arising out of this Division. Another factor may be that 52 Division has the largest number of police officers of any Division in Metropolitan Toronto.

7. Types of Complaint Allegations

The average number of allegations per complainant was 2.0. 67.5% of the cases contained one (33.3%) or two (34.2%) complaint allegations. Three, four or five complaint allegations were made by 23.0%, 7.5% and 1.7% of the complainants respectively. Two cases (0.2%) involved six and seven complaint allegations per case.

TABLE 8

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

<u>POLICE DIVISION</u>	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
DIVISION 11	31	5.2	30	4.1
DIVISION 12	18	3.0	18	2.5
DIVISION 13	38	6.4	29	4.0
DIVISION 14	68	11.4	62	8.4
DIVISION 21	12	2.0	15	2.0
DIVISION 22	27	4.5	35	4.8
DIVISION 23	29	4.9	27	3.7
DIVISION 31	35	5.9	58	7.9
DIVISION 32	41	6.9	33	4.5
DIVISION 33	19	3.2	27	3.7
DIVISION 41	22	3.7	40	5.4
DIVISION 42	11	1.8	18	2.5
DIVISION 43	21	3.5	41	5.6
DIVISION 51	24	4.0	37	5.0
DIVISION 52	88	14.7	119	16.2
DIVISION 53	39	6.5	40	5.4
DIVISION 54	22	3.7	36	4.9
DIVISION 55	<u>52</u>	<u>8.7</u>	<u>69</u>	<u>9.4</u>
TOTAL CASES	<u>597</u>	<u>100.0</u>	<u>734</u>	<u>100.0</u>

The most frequent type of allegation lodged against a police officer was assault: half of the complaints filed involved an allegation of assault against a police officer -- 42.3% complained of common assault while 8.6% complained of assault causing bodily harm. The second most frequent complaint was that of verbal abuse/incivility, with 47.0% of the complainants filing this type of complaint. The following four types of complaints also appeared with some regularity: harassment/oppressive conduct/threats 29.3%; irregularity in procedure 26.6%; mishandling of property 10.8%; neglect of duty 8.7%; unlawful arrest 7.1% and unlawful search 5.9%. The complete list of types of complaints and the number of complainants who complained of each type may be found in Table 9*.

8. Precipitating Factors

The actual incident that led to or precipitated the complaint was also recorded in the complaint recording form. The most common type of incident involved a criminal investigation by the police: 34.3% of all complaints arose out of this situation. The second most frequent precipitating factor was police officers stopping people for traffic violations (26.4%). The only other precipitating factor which occurred with any regularity was arrest: 16.8% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 7.3% of the cases. The full list of precipitating factors is presented in Table 10.

* For some areas of particular interest, the frequency distributions for the two years of data collection (1982 and 1983) were included in the Tables.

TABLE 9
TYPES OF COMPLAINT ALLEGATIONS FILED

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
ASSAULT	290	47.7	385	50.9
COMMON ASSAULT	230	37.8	320	42.3
ASSAULT BODILY HARM	60	9.9	65	8.6
VERBAL ABUSE/INCIVILITY	291	47.8	356	47.0
HARASSMENT/THREAT/ OPPRESSIVE CONDUCT	184	30.2	222	29.3
IRREGULARITY IN PROCEDURE	101	16.6	201	26.6
NEGLECT OF DUTY	66	10.8	66	8.7
MISHANDLING OR DAMAGE TO PROPERTY	52	8.5	82	10.8
UNLAWFUL SEARCH	34	5.6	45	5.9
UNLAWFUL ARREST	28	4.6	54	7.1
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	22	3.6	15	2.0
DECEIT	11	1.8	24	3.2
TRAFFIC IRREGULARITY BY OFFICER	10	1.6	20	2.6
INADEQUATE POLICE SERVICE	8	1.3	0	0.0
CORRUPTION/THEFT/FRAUD	5	0.8	12	1.6
IRREGULARITY RE: EVIDENCE	5	0.8	6	0.8
SEXUAL HARASSMENT	4	0.7	1	0.1
BREACH OF CONFIDENCE	2	0.3	2	0.3
INTOXICATED	0	0.0	7	0.9
NO FOLLOW-UP	0	0.0	4	0.5
OTHER	<u>4</u>	<u>0.7</u>	<u>5</u>	<u>0.7</u>
 TOTAL RESPONSES	 <u>1117</u>	 <u>183.4</u>	 <u>1507</u>	 <u>199.0</u>

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

TABLE 10

FACTORS PRECIPITATING COMPLAINTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
TRAFFIC VIOLATION	225	37.0	200	26.4
CRIMINAL INVESTIGATION	159	26.1	260	34.3
ARREST	94	15.4	127	16.8
INTERROGATION	23	3.8	21	2.8
PARKING VIOLATION	16	2.6	31	4.0
REQUEST IDENTIFICATION	16	2.6	12	1.6
DOMESTIC MATTER	13	2.1	8	1.1
BYLAW INVESTIGATION	0	0.0	27	3.6
DURING COURT PROCEEDINGS	0	0.0	3	0.4
LANDLORD/TENANT DISPUTE	0	0.0	3	0.4
OTHER	13	2.1	10	1.3
NO APPARENT PRECIPITATING FACTOR	<u>50</u>	<u>8.2</u>	<u>55</u>	<u>7.3</u>
TOTAL CASES	<u>609</u>	<u>100.0</u>	<u>757</u>	<u>100.0</u>

A description of each type of precipitating factor is provided below.

Traffic Violations:

Sole cause of police intervention is a Highway Traffic Act offence (not Criminal Code offence such as impaired driving, which would be coded as criminal investigation) and the allegation of misconduct arises out of this intervention. Example: Allegation that officer called complainant a "goof" when giving a speeding ticket.

Criminal Investigation:

Sole cause of police intervention is the investigation of a criminal offence. Police may have been called in or intervened of their own accord and the allegation of misconduct arose when they were in the process of investigating a crime. Criminal investigation could occur anywhere, e.g. residence, shopping mall, police building.

Example: Allegation of assault at police station while officers attempting to take a statement from the complainant to confess to a crime. Example: Officer has a description of a suspect. Complainant is walking along street. Officer thinks he has reasonable and probable grounds to believe that complainant is the suspect. Officer asks for identification. Complainant refuses. Officer arrests complainant. Allegation is that officer has no right to ask for identification.

Arrest:

Allegation of misconduct occurs while police are in the act of effecting an arrest. Example: Same as in Criminal Investigation example, except that allegation is that officer struck complainant at time of arrest.

Interrogation Unrelated to Criminal Activity:

Questioning complainant about matters not related to any specific criminal offence. No indication that complainant is under arrest although he may be detained. If detained, complainant is released without being charged. Example: Complainant is walking along the street and asked why she is walking alone late at night, where she lives, who she lives with and where she works. Allegation is that officer was harassing her.

Request for Identification:

Sole cause of police intervention is request for identification. No indication that complainant was involved in any offence or that police were investigating any offence and not a situation where it may be mandatory to identify oneself (e.g., Highway Traffic Act). Example: Complainant is walking along street and police officer asks her for her name. Complainant refuses and police officer then asks her to produce identification. Complainant again refuses. Allegation is that officer had no right to ask for identification and that officer shouted and swore at complainant following her second refusal; when she finally complied, the officer detained her in his police cruiser for twenty minutes while he checked her out over his radio.

Parking Violation:

Sole cause of police intervention is a parking violation and allegation of misconduct arises out of this intervention. Example: Allegation that officer improperly exercised discretion when she gave complainant a ticket in a no parking zone. Complainant drives for a courier service in a clearly marked stationwagon with an "on delivery" sign. He was away from his vehicle for five minutes and officer was just beginning to write ticket when he returned, but would not listen to his explanation.

Domestic Matter:

Sole cause of police intervention was a call to assist in a domestic dispute and allegation arises out of this intervention.

Example: Allegation that officer struck complainant whose wife had called police to help her defend against a drunken husband.

No Precipitating Factor:

No apparent cause that precipitated the complaint. Example: Complainant standing on sidewalk. Police cruiser stops and with hand motions complainant to cross. Complainant did not wish to use crosswalk, i.e., was waiting for streetcar and motioned officer to this effect. Verbal abuse allegation followed.

Other:

Situations that do not fall into any of the above categories. Example: Police officer attended complainant's home in uniform to collect overdue rent. Officer is landlord of this building.

9. Alleged Injuries and Damages

There were no injuries alleged in 62.7% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 35.7% of the complainants reported this type of injury. The remaining types of injuries alleged occurred with very little frequency: 3.5% complained of injuries or pain inflicted by handcuffs while another 4.1% of the complainants reported fractures, internal injuries, damage to teeth, etc. The full list of alleged injuries to complainants may be found in Table 11.

TABLE 11

ALLEGED INJURIES TO COMPLAINANTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
CUTS, BRUISES	185	30.6	269	35.7
HANDCUFF INJURIES	30	5.0	26	3.5
INTERNAL INJURIES	15	2.5	6	0.8
GENITALIA INJURIES	10	1.7	2	0.3
FRACTURES	9	1.5	13	1.7
TEETH	9	1.5	10	1.3
OTHER	3	0.5	0	0.0
NO INJURIES	<u>398</u>	<u>65.9</u>	<u>472</u>	<u>62.7</u>
 TOTAL RESPONSES	<u>659</u>	<u>109.2</u>	<u>798</u>	<u>106.0</u>

NOTE: The total number of injuries alleged exceeds 100% due to the fact that a complainant could have suffered from more than one injury.

The severity of the injuries was also recorded with respect to those complainants who alleged injuries: 44.4% of the alleged injuries were minor in nature (mild bruises, small lacerations - i.e. scratches); 44.8% of the alleged injuries were moderate (extensive bruising, cuts, swelling), while 10.8% of the alleged injuries were considered to be serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Among those cases where injuries had been alleged, complainants attended a hospital in 36.7% of these cases.

Of those cases in which allegations of assault had been made, 18.7% made mention of a baton being used in the assault allegation. Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton.

The incidence of property damage claimed by complainants was relatively low. Only 9.6% of the complaints involved allegations of property damage. In 5.5% of the complaints, alleged damage was considered to be minor in nature (damage estimated under \$75 - small scratches, dents, etc.), while in 1.7% of the complaints, alleged damage was of moderate severity (damage estimated

* The degree of severity for the injuries recorded was a subjective judgement made on the part of the researcher coding this information.

under \$150 - broken windows, damaged doors, etc.). The remaining 2.4% of the cases involved allegations of serious property damage estimated at a value greater than \$150.*

10. Photographs Taken

In cases of injury or property damage, no photographs were taken in 49.3% of the cases. This may be accounted for by the fact that the injuries involved in many of these cases were no longer visible at the time the complaint was filed. In addition, where the injury was internal, and thus not visible, no photographs would be taken. Photographs were taken by the Police Identification Unit in 39.6% of the cases, by the Public Complaints Commissioner in 8.2% of the cases, and by the complainant or others in 2.9% of the cases.

It is noteworthy that the number of photographs taken increased by almost 10% from the previous year (at which time there was an increase of 15% from the period before). This further demonstrates the fact that the new investigative format under the Act which requires the police to photograph any alleged injury or alleged damage at the earliest possible opportunity, is having an effect. The data on photographs taken are presented in Table 12.

* The degree of severity for the property damage noted was a subjective judgement made on the part of the researcher coding this information.

TABLE 12

PHOTOGRAPHS TAKEN OF INJURIES ALLEGED
TO HAVE RESULTED FROM POLICE MISCONDUCT

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
BY POLICE IDENTIFICATION UNIT	71	34.8	111	39.6
BY PUBLIC COMPLAINTS COMMISSIONER	10	4.9	23	8.2
BY OTHERS	3	1.5	1	0.4
BY COMPLAINANT	1	0.5	3	1.1
BY BUREAU	0	0.0	4	1.4
NO PHOTOGRAPHS TAKEN	<u>119</u>	<u>58.3</u>	<u>138</u>	<u>49.3</u>
TOTAL CASES	<u>204</u>	<u>100.0</u>	<u>280</u>	<u>100.0</u>

11. Type of Police Mobilization

In 70.5% of the cases the police used their own discretion to intervene. In 29.5% of the cases, the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 58.1% of the cases the complainants were not in police custody at the time of the complaint incident. In 41.9% of the cases the complainant was either being taken into custody or was actually in custody at a Police Station at the time of the complaint incident.

C. DATA ON COMPLAINANTS

1. Police Division of Complaint

The Police Division in which the complaint incident actually occurred was often the same as the one in which the complainant lived, or was adjacent to the Division where the complainant lived. 48.4% of the complainants lived in the same Police Division as that of the occurrence while 19.2% lived in a Division adjacent to the Division of the occurrence. 32.4% of the complaint incidents did not take place in a Division close to the complainant's residence.

2. Sex, Age & Residence of Complainants

The great majority of complainants was once again male (82.6%); female complainants comprised 17.4% of the total. Complainants tended to be young, with roughly three quarters of them being 35 years of age or under: 43.7% were 25 years of age or under while 29.9% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 13.

TABLE 13

AGE OF COMPLAINANTS

	<u>No.</u>	<u>%</u>
UNDER 16 YEARS	14	2.1
16 TO 17 YEARS	25	3.9
18 TO 25 YEARS	242	37.7
26 TO 35 YEARS	192	29.9
36 TO 45 YEARS	100	15.6
46 TO 55 YEARS	53	8.3
56 TO 65 YEARS	14	2.2
OVER 65 YEARS	<u>2</u>	<u>0.3</u>
 TOTAL CASES	 <u>642</u>	 <u>100.0</u>

The majority of complainants (80.9%) lived in unsubsidized housing while 7.5% lived in subsidized dwellings. These data are presented in Table 14.

15.7% of the complainants were allegedly or admittedly intoxicated or on drugs at the time of the complaint incident: 14.4% were allegedly or admittedly intoxicated while 1.3% were allegedly or admittedly on drugs.

3. Minority Aspect of Complaints

One aspect of the complaint, as seen from the complainant's perspective, was some form of racially derogatory comment in 9.4% of the cases, and harassment by police of homosexuals in 1.3% of the cases. Accordingly, the large majority of complaints filed (89.3%) did not appear to arise from racial or homosexual causes as perceived by the complainant.

TABLE 14

RESIDENCE OF COMPLAINANTS

	<u>No.</u>	<u>%</u>
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	425	59.3
UNSUBSIDIZED HIGHRISE	<u>155</u>	<u>21.6</u>
	<u>580</u>	<u>80.9</u>
 SUBSIDIZED SINGLE/MULTIPLE DWELLING	19	2.7
SUBSIDIZED HIGHRISE	<u>35</u>	<u>4.8</u>
	<u>54</u>	<u>7.5</u>
 OTHER	<u>83</u>	<u>11.6</u>
 TOTAL CASES	<u>717</u>	<u>100.0</u>

4. Criminal Charges Against Complainants

In fewer than one third of the incidents giving rise to complaints (30.8%), the police laid criminal charges against complainants -- dangerous-driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 15.* The vast majority of these charges (99.1%) were laid before a complaint had been filed by the complainant.

Of the 233 charges laid against complainants, the P.C.C. was unable to determine the outcome in 37 of the cases. Of the remaining charges, 56.2% of the complainants were found guilty as charged, while 20.4% were found not guilty. 14.3% of the charges were withdrawn. The outcome in 7.1% of the cases is still pending, while a bench warrant was issued in the remaining 2.0% of the cases.

D. POLICE OFFICERS INVOLVED IN COMPLAINTS

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 1058 police officers were involved in the closed cases for this year (excluding withdrawn cases)**.

* In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

** Data on police officers were not pursued in cases where the complaint was later withdrawn.

TABLE 15

CRIMINAL CHARGES* LAID BY POLICE AGAINST COMPLAINANTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
NO CRIMINAL CHARGE	403	66.2	524	69.2
INTOXICATED, DISORDERLY	61	10.0	22	2.9
OBSTRUCT POLICE	44	7.2	54	7.1
DRIVING VIOLATION	42	6.9	43	5.7
PROPERTY OFFENCE	38	6.3	63	8.3
ASSAULT	10	1.6	34	4.5
PUBLIC MISCHIEF	0	0.0	3	0.4
OTHER	<u>11</u>	<u>1.8</u>	<u>14</u>	<u>1.9</u>
TOTAL CASES	<u>609</u>	<u>100.0</u>	<u>757</u>	<u>100.0</u>

NOTE: In some cases there were multiple charges laid.
Only the most serious charge was recorded for the
purposes of our data collection.

Officers in 33 cases could not be identified and were, thus, treated as missing data. On the average, there were 1.8 police officers involved per complaint filed.

Only one police officer was involved in 54.3% of the cases while two police officers were involved in 29.2% -- this accounted for 83.5% of the total. The data on the number of police officers involved per complainant may be found in Table 16.

The great majority of police officers (98.2%) were on duty at the time that the complaint incident occurred. Only 1.8% of the officers were off duty during the incident.

1. Rank of Police Officers Involved in Complaints

Very few of the police officers involved in complaints were senior officers: 3.4% were staff inspectors or staff sergeants (one staff superintendent), while 10.3% were sergeants. Thus, 13.7% of the total number of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained of had the rank of police constable first class (74.5%). The remaining officers were second, third or fourth class constables. These data may be found in Table 17.

TABLE 16

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

<u>POLICE OFFICERS</u>	<u>No.</u>	<u>%</u>
1	343	54.3
2	184	29.2
3	53	8.4
4	34	5.4
5	8	1.3
6	4	0.6
7	1	0.2
8	<u>4</u>	<u>0.6</u>
 TOTAL CASES	 <u>631</u> *	 <u>100.0</u>

$$\bar{X} = 1.8 \text{ OFFICERS}$$

* NOTE: The total number of relevant cases involved here is 655: 757 (total closed cases) minus 102 (withdrawn cases) = 655. There were 24 cases in which data on the number of police officers were missing, thereby reducing the total to 631.

TABLE 17

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
STAFF SUPERINTENDENT	0	0.0	1	0.1
STAFF INSPECTOR	0	0.0	5	0.5
STAFF SERGEANT	16	1.8	30	2.8
SERGEANT	69	7.6	109	10.3
CONSTABLE 1	700	77.2	788	74.5
CONSTABLE 2	55	6.1	63	6.0
CONSTABLE 3	60	6.6	52	4.9
CONSTABLE 4	<u>6</u>	<u>0.7</u>	<u>10</u>	<u>0.9</u>
 TOTAL OFFICERS	<u>906</u>	<u>100.0</u>	<u>1058</u>	<u>100.0</u>

2. Years of Service for Police Officers
Involved in Complaints

9.9% of the police officers involved in complaints had one to two years of service while 17.6% had three to five years of service with the Force. The majority, 58.8%, had six to fifteen years of experience with the Force: 44.0% were with the Force six to ten years while 14.8% had been with the Force eleven to fifteen years. The remaining 13.7% had been with the Force for over sixteen years. These data may be found in Table 18.

3. Criminal Charges Against Police Officers

In nine cases (1.2%), criminal charges were laid against police officers. This includes three criminal charges resulting from the Chief's decision following the complaint investigation. In eight of these cases the charge laid was common assault and in the remaining one case, the charge was assault causing bodily harm. Two of the nine cases were withdrawn before they went to trial. In six of the cases the police officers were found not guilty while in one case the officer was found guilty as charged. This case is referred to in Section E.

E. DISPOSITIONS OF COMPLAINTS BY CHIEF OF POLICE

The dispositions of complaints given by the Chief of Police are presented over several tables. The overall dispositions are presented in Table 19. 58.2% of the cases were formally resolved after a complete investigation

TABLE 18

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
UNDER 1 YEAR	7	0.8	15	1.4
1 TO 2 YEARS	76	8.4	90	8.5
3 TO 5 YEARS	180	20.0	186	17.6
6 TO 10 YEARS	435	48.3	465	44.0
11 TO 15 YEARS	111	12.3	156	14.8
16 TO 20 YEARS	53	5.9	79	7.5
OVER 20 YEARS	<u>39</u>	<u>4.3</u>	<u>65</u>	<u>6.2</u>
TOTAL OFFICERS	<u>901</u>	<u>100.0</u>	<u>1056</u>	<u>100.0</u>

TABLE 19

DISPOSITIONS OF COMPLAINTS BY CHIEF OF POLICE

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
FORMAL RESOLUTIONS	336	55.2	441	58.2
INFORMAL RESOLUTIONS	224	36.8	214	28.3
COMPLAINTS WITHDRAWN	48	7.9	102	13.5
OTHER	<u>1</u>	<u>0.2</u>	<u>0</u>	<u>0.0</u>
TOTAL CASES	<u>609</u>	<u>100.0</u>	<u>757</u>	<u>100.0</u>

had been conducted. This means that a decision was made by the Chief's designate regarding the complaint. 28.3% of the complaints were informally resolved to the expressed mutual satisfaction of both parties, while 13.5% of the cases were withdrawn.

A more detailed breakdown of the dispositions is presented in Table 20, consisting of an analysis of the entire sample with respect to the reasons for the dispositions given. Table 20A and 20B deal separately with the dispositions given for formal and informal resolutions respectively.

1. Formal Resolutions

441 of the cases in our sample (58.2%) were resolved formally. In 314 of the cases (41.5%) no action was warranted due to insufficient evidence to prove the allegation. The officer's statement was verified by an independent witness in 48 cases (6.3%). A finding that the officer had acted lawfully was made in 45 cases (5.9%). In 34 of these cases (7.7%) the Chief's designate took some action: in 22 (5.0%) of the cases, the officer was counselled and/or cautioned; 9 cases led to disciplinary charges under the Police Act and 3 cases resulted in the Chief of Police causing criminal charges to be laid.

The Police Force defines a "caution" as a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involved relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer speaks to the subject officer with a view

TABLE 20

DETAILED ANALYSIS OF DISPOSITIONS OF COMPLAINTS

	<u>No.</u>	<u>%</u>
<u>FORMAL RESOLUTIONS</u>		
No action warranted due to:		
Insufficient evidence to prove allegation	314	41.5
Officer's statement verified by independent witness/corroborating evidence	48	6.3
Officer acted lawfully	45	5.9
Officer counselled and/or cautioned	22	2.9
Officer charged under Police Act	9	1.2
Officer charged under Criminal Code	<u>3</u>	<u>0.4</u>
 TOTAL FORMAL RESOLUTIONS	 441	 58.2
<u>INFORMAL RESOLUTIONS</u>		
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	128	16.9
Complainant content to make police force aware of complaint	53	7.0
Complainant acknowledged he may have been mistaken about alleged misconduct	13	1.7
Parties signified agreement by signature; no apparent reason for agreement	10	1.4
Officer advised/spoken to by superiors	8	1.1
No independent evidence to substantiate complaint	1	0.1
Officer counselled and/or cautioned	<u>1</u>	<u>0.1</u>
 TOTAL INFORMAL RESOLUTIONS	 214	 28.3
COMPLAINTS WITHDRAWN	<u>102</u>	<u>13.5</u>
 TOTAL DISPOSITIONS OF CASES	 <u>757</u>	 <u>100.0</u>

to help him or her to improve performance. Both are forms of discipline and are recorded in the police officer's file, which is retained at Headquarters.

In the nine cases in which police officers were charged under the Police Act, one charge was withdrawn, two officers were found not guilty and six officers were convicted. Penalties were forfeiture of days off or reduction in rank. In the case that was withdrawn, the withdrawal was at the request of the complainant. The officer apologized, and was counselled and cautioned.

In the remaining three cases, in which the officers were charged under the Criminal Code, one officer was acquitted. In another, the charge was withdrawn, however, the officer was subsequently charged under the Police Act, convicted, and was ordered to forfeit nine day's off.

In the third case, the officer was found guilty and received a conditional discharge with probation. One of the conditions of probation was a psychiatric assessment. The officer was also charged under the Police Act, found guilty and reduced in rank.

It should be noted that in the previous year, no officers were charged either under the Police Act, or under the Criminal Code.

2. Analysis of Formal Resolutions

In those cases where there was a finding of "no action warranted" the primary reason was insufficient evidence to prove or disprove the allegation. This was the reason given in 71.2% of the formal resolutions. These cases

generally involved an allegation by the complainant and a denial of that allegation by the police officer with no independent evidence to support either version of the incident. This does not mean that the Chief allotted more weight to the police officer's version of the events nor that he doubted the word or motive of either the complainant or the police officer. Rather, it means that the Chief was unable to take action without sufficient evidence.

An example of a case where the Chief's designate found that no action was warranted due to insufficient evidence is the following:

Mr. A. was involved in a motor vehicle accident. He alleged that during the course of investigating the accident a police officer twice called him stupid.

The Public Complaints Investigation Bureau obtained information from the complainant, the officer, and the officer's partner who was present at the time. The accident report and a copy of the provincial offence notice was reviewed. The officer denied calling the complainant stupid, stating that when he told the complainant he was at fault and would be charged he became argumentative and accused the officer of implying that he was stupid. The officer's partner stated that at no time had the officer insulted the complainant.

There was no other available evidence, and the Chief's designate concluded that no action was warranted.

Other reasons for a finding of "no action warranted" were that the police officer's position had been verified independently by other witnesses (10.9%) and that the officer had acted lawfully (10.2%). These data may be found in Table 20A.

TABLE 20A

ANALYSIS OF FORMAL RESOLUTIONS

	<u>No.</u>	<u>%</u>
No action warranted due to:		
Insufficient evidence to prove allegation	314	71.2
Officer's statement verified by independent witness/corroborating evidence	48	10.9
Officer acted lawfully	45	10.2
Officer counselled and/or cautioned	22	5.0
Officer charged under Police Act	9	2.0
Officer charged under Criminal Code	<u>3</u>	<u>0.7</u>
 TOTAL FORMAL RESOLUTIONS	 <u>441</u>	 <u>100.0</u>

An example of a case where the Chief's designate found no action was warranted because the independent evidence corroborated the officer's statement is the following:

Mr. B. and two friends were coming out of a store when they saw two police officers searching a man. The man had his coat off, and Mr. B. stated that he told the officers to give the man back his coat because it was cold outside. Mr. B. alleged that one of the officers told him to mind his own business, and then came over and pushed Mr. B. in the chest. Mr. B. pushed the officer back.

In the course of investigating this complaint, the Public Complaints Investigation Bureau obtained information from the complainant, the complainant's two friends, several sales staff of the store in question, the man who had been searched, and the two officers involved in the incident.

The subject officer stated that he had been investigating a complaint of shoplifting and was searching a suspect when three men came out of the store, stopped and started yelling at the police. The subject officer stated that the complainant did not tell him to give the suspect his coat back, but did say, "don't you have anything better to do than harass innocent people." The subject officer cautioned Mr. B. and alleged that Mr. B. became angrier, started swearing at the officers, and shoved him on the chest. He handcuffed Mr. B. and brought him to the police station for obstructing police officers. Mr. B. was eventually released without charge.

Three store employees stated that when Mr. B. and his two friends entered the store they were loud, swaggering and boisterous, and it appeared that they had been drinking. They were talking and yelling in the store and disturbing customers. One employee said that she saw the subject officer talking to Mr. B. move backwards as

if he had been pushed. She said that she did not see the subject officer assault anyone and that he did not use any profane language. The other two employees did not see what went on outside the store.

The suspected shoplifter was also interviewed. He stated that the two officers had frisked him, that "three guys started pushing the officers around" and that "the three guys started it; the officers were just defending themselves." In this case the Chief's designate concluded that no action was warranted.

As stated above, another reason given by the Chief's designate for finding that no action is warranted is because the officer concerned has acted lawfully. The following case exemplifies the situation in which an officer was acting lawfully and no action was taken against him.

Mr. C. was arrested by a police officer and an immigration officer at a fitness centre where he had been working out. The officer showed him a photograph of a man whom they said they were looking for. Mr. C. protested that he was not the same man; however, he was searched, handcuffed, and removed to a police car. Mr. C. alleged that the officer ignored information he gave him about where he worked, and his suggestion that the officer contact his wife for further information. Upon arrival at another location where there was an opportunity to consult with another immigration officer, the police officer and the immigration officer who arrested Mr. C. were informed that the suspect they were looking for had a tatoo. Mr. C. had no such tatoo. His handcuffs were removed and after some further investigation he was taken to his home and released.

The Public Complaints Investigation Bureau obtained information from the complainant, the subject officer, and the immigration officers involved. The immigration officers stated that they had been looking for a man who had multiple convictions in the U.S.A. for violent offences. The U.S. border patrol had alerted them that this person was considered to be armed and dangerous. He was also reported to be living at a particular address in Toronto. The immigration officers asked the police to assist them in attempting to apprehend this man; therefore two police officers accompanied two immigration officers to the address where the suspect was said to be living. Upon reaching the address, the immigration officers and the police officers stated that the occupant of the residence admitted that the suspect was living with her, and told them that the suspect was working out at a fitness centre on a particular Toronto street.

Upon receiving this information, one police officer and one immigration officer stayed with the informant, and one police officer and one immigration officer went to the location described. Upon arriving there, they saw the complainant, who appeared similar in physical description to the description of the wanted man. The fact that the complainant had identification in a name other than the name of the wanted man did not surprise the officers, as the wanted man used a number of aliases. The police officer stated that he handcuffed the complainant because of the information that the suspect, who, like the complainant, was a large man, was to be considered dangerous. The immigration officer stated that he telephoned the name given by the complainant into the immigration computer, but could find no information under that name. The immigration officer stated that although he did the computer check twice, no information was forthcoming. The police officer and the immigration officer took the complainant back to the informant's residence, and were informed by the other

immigration officer that the suspect they wanted had a tattoo, whereas the complainant did not. The police officer and the immigration officer then took the complainant to his residence and spoke to his wife, who produced the complainant's passport with a photograph of him and his immigration file number. The immigration officer stated that he did one more computer check, and this time turned up the appropriate information on the complainant. Both the police officer and the immigration officer stated that they apologized to the complainant for troubling him.

In this case, the Chief's designate on reviewing the file concluded that the police officer had been reasonable in acting on the information given by the immigration officer and that the police officer had also been acting lawfully. The Chief's designate concluded that no action was warranted against the officer.

A lawful action by an officer can give rise to discipline in certain circumstances. One such example is the following.

Ms. D. was stopped by a police officer after she had left a store in which she had been shopping. The police officer asked Ms. D. to open her purse because Ms. D. had been accused of shoplifting. Ms. D. complied with this request. After searching the purse, the police officer also searched Ms. D.'s coat pockets. This was done in front of the store on a busy street in view of a number of people.

In investigating the complaint, the Public Complaints Investigation Bureau obtained information from the complainant, the police officer, three of the complainant's relatives who were with her at the time, an employee of the store and the manager of the store.

The store employee had observed the complainant and her relatives while they were shopping, and noticed that one pocket of the complainant's jacket was bulging. She thought she saw a scarf in the pocket, but she did not actually see the complainant take anything. However, this employee alerted the police officer and advised her that she thought the complainant had stolen something.

The police officer stated that she was informed by the store employee that she had seen the complainant pay for one scarf and put the other in her pocket. The employee pointed the complainant out to the police officer, and the police officer approached the complainant and asked if she could have a look in her purse. The complainant agreed, and the officer looked in her purse and coat pockets. At this time, she said, one of the complainant's relatives asked her if the search could not be done inside. However, the officer felt that she would have more difficulty in searching the complainant inside the store as there were far fewer people on the street. (Due to the Boxing Day sale, the store was extremely crowded.) The officer stated that she was polite to the complainant, and that on finding nothing in the complainant's pockets she returned to the store and told the employees that the complainant had not stolen merchandise.

On reviewing the file, the Chief's designate pointed out that the police officer was acting lawfully. However, he did find that the officer ought to have asked the complainant to return to the store where the search could have been done more discreetly, out of the view of other people. The Chief's designate counselled the officer in this respect.

An example of a case where the Chief's designate cautioned a police officer is as follows:

Mr. E. complained that as he was leaving a parking lot in his car he saw two police officers on the road waving at him to stop. He alleged that, as he stopped, the police officers ran towards his car and one of them struck his car on the hood with his nightstick. He further alleged that the officer who had struck his car opened the car door and dragged him out of the car claiming that he was driving dangerously. The complainant was subsequently charged with dangerous driving. The charge was dismissed when it came to court.

The Public Complaints Investigation Bureau obtained information from the complainant, the subject officer, the officer's partner, a bus driver who happened to be passing at the time of the incident, and another person who was using the parking lot. They also photographed the complainant's car.

While the police officer involved in the complaint stated that the complainant was driving dangerously and did not appear about to stop as the officer approached, some independent evidence supported the complainant's statement that he was in fact slowing to a stop.

After reviewing the file, the Chief's designate recommended that the officer be charged, pursuant to the Police Act, for damaging the hood of the complainant's automobile with his baton. The Chief's designate also submitted a report to the Board of Commissioners of Police recommending that the complainant be reimbursed for the cost of repairing the automobile.

After receiving the letter from the Chief's designate, Mr. E. contacted the police force, spoke to the Chief's designate, and asked him not to pursue the Police Act charge against the officer, as the complainant would find it impossible to

attend to give evidence. The Chief's designate acceded to Mr. E.'s request. However, the complainant was reimbursed and the officer was cautioned against the improper use of his baton. A caution is the strongest form of discipline that can be imposed without a formal trial held under the Police Act.

In each case that is formally resolved, the Chief of Police or his designate is required to give written reasons for his decision to the complainant, the subject officer and the Public Complaints Commissioner. The complainant has a right to request a review of the Chief's decision if he is not satisfied with either the decision or the reasons given. During the second year ending December, 1983, 74 requests for review were made. 69 cases were closed within the year (some of these dating from the first year) and are dealt with separately in this report.

29 review cases remained open on December 20, 1983, and will be included in the following year's report.

3. Informal Resolutions

In 214 of the cases the complaints were resolved informally to the expressed mutual satisfaction of both parties.

Prior to the new legislation, an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation were explained to him and that he was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of

the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to his complaint or the nature and extent of the investigation that was conducted.

Under the new legislation, the officer in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally by a staff sergeant at a police station or by the Public Complaints Commissioner. Complaints can be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing the specially designed form. (See Appendix II(c) for Record of Informal Resolution).

The manner in which the complaint is resolved must also be recorded. The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved. All informal resolutions are reviewed by the Public Complaints Commissioner.

4. Analysis of Informal Resolutions

The 214 informal resolutions were analyzed in an attempt to discover the reasons why the complainants

agreed to this method of resolution. These data may be found in Table 20B.

Overall, complaints that were resolved informally tended to be simpler in nature in that they involved fewer allegations of misconduct. Formally resolved complaints contained 2.32 allegations of misconduct per complaint whereas informally resolved complaints contained 1.71 allegations of misconduct per complaint.

In 128 of the informal resolutions (59.7%) the police officer either admitted the facts alleged, or apologized or explained his actions to the satisfaction of the complainant.

An example of this type of admission/apology by an officer is as follows:

Mr. A. was head of security for a large shopping centre. One morning at 10:00 a.m. a jewellery store reported a broken window and Mr. A. went to the store and called the police. An hour later the police had still not arrived and he called again. He was advised by radio room personnel that there was a serious accident in the area and that several units were tied up at the scene.

At about 12:30 p.m. a police officer appeared and after asking several questions in a rather gruff manner, left the store. Mr. A. was annoyed by the perfunctory investigation and by the officer's manner. He filed a complaint.

TABLE 20B

ANALYSIS OF INFORMAL RESOLUTIONS

	<u>No.</u>	<u>%</u>
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	128	59.7
Complainant content to make police force aware of complaint	53	24.8
Complainant acknowledged he may have been mistaken about alleged misconduct	13	6.1
Parties signified agreement by signature; no apparent reason for agreement	10	4.7
Officer advised/spoken to by superiors	8	3.7
No independent evidence to substantiate complaint	1	0.5
Officer counselled and/or cautioned	<u>1</u>	<u>0.5</u>
 TOTAL INFORMAL RESOLUTIONS	 <u>214</u>	 <u>100.0</u>

The Public Complaints Investigation Bureau checked police records and confirmed that in fact there had been a major incident in the area at the time and that several units were detailed to this occurrence. The Bureau investigator also checked that a report on the broken window had been properly submitted by the officer who attended at the store.

The Bureau investigator first met with the complainant and explained the circumstances surrounding the delay in response to his call.

He then arranged a meeting between the complainant and the subject officer. During the meeting the subject officer agreed that he should have been more thorough in his investigation. He also stated that there was no intention on his part to be discourteous or abrupt and that he regretted that this was the impression that was created. Both the complainant and the subject officer stated that they were content to informally resolve the matter in this way, and signed a Record of Informal Resolution of the complaint.

In 53 of the cases resolved informally (24.8%) the complainant was content simply to have brought the matter to the attention of the police force. An example of this is as follows:

The complainant was driving his car when he was stopped for speeding. When asked for his driver's licence he was unable to produce the entire licence or proof of insurance. However, he was able to produce these documents shortly after the incident.

The complainant asked to see the speed at which he had been going as registered on the radar machine. The officer was unable to show the speed on the machine. The complainant was given a ticket for speeding and for failing to wear his seatbelt.

The Public Complaints Investigation Bureau checked with the Superintendent in charge of the Traffic Unit and was informed that, at the time in question, a new radar machine had recently replaced the previously used machines. It was not uncommon for an operator experienced with the old machine to make a technical mistake that would result in failure to "lock on" to the speed of a vehicle, thereby making it impossible for the driver to view his speed on the machine.

The complainant insisted that he had only travelled about 100 yards when he was stopped for speeding. The officer, on being approached by the Bureau, insisted that the distance was far more.

The Bureau investigator visited the complainant, explained about the new radar machines, and discussed the relevant sections of the Highway Traffic Act and the Motor Vehicle Accident Claims Act. The complainant agreed that he would be willing to informally resolve the complaint if the complete circumstances of the complaint were brought to the attention of the officer's Unit Commander. The Bureau investigator did this, and both complainant and officer signed an Informal Resolution.

In 13 of the cases (6.1%) the complainant acknowledged that he may have been mistaken regarding the allegation of misconduct. An example of this is as follows:

The complainant was the owner of a trucking company. At 5:00 p.m. on a winter afternoon he had a call from one of his drivers informing him that the truck he was driving had broken down on the highway. The complainant immediately called a towing company and the company informed him that they would pick the truck up shortly. A little later, the complainant received a call from the police force informing him that his truck had broken down. The complainant advised the officer that a tow truck was on

the way. Shortly after 6:00 p.m. he got a call from the tow truck driver saying that he could not find the truck. The complainant suspected that as soon as his driver had left the scene, the officer involved had called another tow truck company and had the truck towed to the pound.

The Public Complaints Investigation Bureau interviewed the officer, who stated that he had come across the disabled truck at about 4:30 p.m. The driver told him that the brakes had failed. The truck was off the road as far as the driver could get it, but it still protruded about 1.5 metres into the roadway. The officer positioned his car a short distance behind the truck and activated his emergency signals as the truck was parked in a hazardous position. The truck driver waited with the police officer for the tow truck to arrive, but at about 5:00 p.m. another truck from the same company came by and the driver stopped. The truck driver asked the officer if he could leave as he had an engagement that evening. Believing that the tow truck would be there shortly, the officer agreed to remain at the scene alone. At about 5:15 p.m. he contacted the police station and asked the station operator to call the truck company and see how long their tow truck was going to be. He was advised that the tow truck was on its way, but was given no time of arrival. At 5:30 p.m. the tow truck had still not arrived. The officer called back to the police station and another tow truck was ordered. The other tow truck arrived on the scene at 5:50 p.m. and the truck was towed. At 6:10 p.m. the officer phoned the company to inform the complainant of the location of his truck, but received no reply.

The Bureau investigator accompanied the police officer to the site at which the truck had been stopped to check the location. The investigator verified that any truck stopped in this location would extend at least three feet into the roadway.

The investigator asked the complainant if he would be willing to resolve the complaint informally. The complainant was informed about the officer's actions during the incident, and agreed that the officer had acted properly and with a good deal of consideration under the circumstances.

In 8 of the cases (3.7%) the record of informal resolutions indicated that the officer was spoken to or advised by his superior. An example of this is as follows:

The complainant was driving into a shopping centre parking lot when he was struck by another vehicle. The accident was investigated by an officer and the complainant was charged under the Highway Traffic Act. The complainant alleged that the officer did not investigate the accident properly and charged the wrong person.

The Public Complaints Investigation Bureau obtained information from the officer, attended at the scene of the accident, and spoke to the other motorist who had been involved in the accident. The Bureau investigator also spoke to a Justice of the Peace in regard to the interpretation of the section of the Highway Traffic Act under which the complainant had been charged. The investigator concluded, as a result of this discussion, that the complainant had been wrongly charged, as that particular section of the Highway Traffic Act dealt with the movement of vehicles on a roadway rather than in a parking lot.

When the Bureau investigator got in touch with the complainant, the complainant stated that he did not wish to get the officer in trouble. The Bureau investigator informed the complainant that the subject officer would be instructed to take more care in the investigation of motor vehicle accidents. The complainant stated that he was satisfied with the investigation and wished no further action taken against the officer.

In one case (0.5%) the record of informal resolutions indicated that the officer was counselled and/or cautioned. In another case (0.5%) where no independent evidence was available, the complainant was satisfied to resolve the complaint informally.

In 1983, there was only one case where lack of independent evidence was noted as the reason for the informal resolution of a complaint. Last year there was a considerably higher number of cases (12) in this category. As a result of a number of discussions with the Bureau, it was generally agreed that the lack of independent evidence was not, of itself, a sufficient reason to resolve the complaint informally. It is not the function of the investigator to draw such conclusions. This is an adjudicative function which must be performed by the Chief or his designate after a review of the complete investigation.

Finally, there were ten cases (4.7%) where the reason for agreement to an informal resolution could not be determined. The complainant may have been satisfied to bring the matter to the attention of the police force. Conversely, it is possible that the complainant was simply not interested in pursuing the matter through the formal stages and, therefore, was satisfied with an informal resolution.

The Commissioner takes the view that the reason for an informal resolution must be clearly indicated on the Record. The number of informal resolutions in this category had decreased significantly from 29.9% in year one to 4.7% in the present year.

5. Withdrawals

102 or 13.5% of the complaints were withdrawn by the complainant.

An analysis of the withdrawals indicates that 55.9% of these complainants were filed at a police station, 25.5% at the Bureau and 18.6% with the Office of the Public Complaints Commissioner.

28.4% of the withdrawals were attributed to an admission of error on the part of the complainant. This is usually explained by the complainant being so intoxicated at the time that a clear recollection of events was impossible. In another 26.5% of the cases, the reasons for withdrawal were not known. 13.7% of the complainants who withdrew their complaint stated their desire to merely call attention to the incident or put it on the record rather than follow through with an investigation. 9.8% of the complainants withdrew their complaints on the advice of their counsel, and another 6.9% withdrew their complaints stating all their concerns or allegations had been dealt with in court. The remaining cases (14.7%) were withdrawn for miscellaneous reasons.

32.4% of the complainants who withdrew their complaints retained lawyers. It is known that the withdrawal of some complaints was connected to the plea bargaining process. Although some such cases have come to the P.C.C.'s attention, the actual frequency of this occurrence cannot be ascertained by statistics, since this information is not available.

6. Dispositions by Chief of Police for Officers
Involved in Complaints

24.5% of the police officers involved in complaints entered into informal resolutions. The remaining 75.5% of the officers were subject to a complete investigation followed by a decision of the Chief (formal resolution).

There was a finding of "no action warranted" for 71.4% of the officers. The reasons for the Chief not taking action are set out in Table 15. 3.4% of the officers were either spoken to, advised, counselled and/or cautioned by their superiors as a result of the complaint, while another 1.3% were disciplined under the Police Act and the remaining 0.4% charged with a criminal offence under the Criminal Code. These data may be found in Table 21.

F. COMPLETED REVIEWS BY THE PUBLIC COMPLAINTS COMMISSIONER

A far greater number of reviews were completed in 1983 than in the previous year -- four times as many. There were 69 reviews completed* in 1983, comprising 9.1% of all the closed complaints.

* A "completed review" means a review of a case that was closed in the reporting year. Where the P.C.C. reviews a case and orders a Board hearing, the case is not closed until the hearing has ended. Therefore, in this reporting year, for example, there were 5 reviews where the P.C.C. ordered a Board hearing that was pending at the year-end. Accordingly, these 5 cases are not part of the 69 cases referred to above.

TABLE 21

DISPOSITIONS BY CHIEF OF POLICE
FOR OFFICERS INVOLVED IN COMPLAINTS

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
<u>FORMAL RESOLUTION</u>				
NO ACTION WARRANTED	592	65.3	758	71.4
OFFICER COUNSELLED AND/OR CAUTIONED	19	2.1	25	2.4
POLICE ACT CHARGES	0	0.0	14	1.3
CRIMINAL CHARGES	<u>0</u>	<u>0.0</u>	<u>4</u>	<u>0.4</u>
TOTAL FORMAL RESOLUTIONS	<u>611</u>	<u>67.4</u>	<u>801</u>	<u>75.5</u>
<u>INFORMAL RESOLUTION</u>				
INFORMAL RESOLUTION	255	28.2	250	23.5
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	33	3.6	10	0.9
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	<u>6</u>	<u>0.7</u>	<u>1</u>	<u>0.1</u>
TOTAL INFORMAL RESOLUTIONS	<u>294</u>	<u>32.5</u>	<u>261</u>	<u>24.5</u>
<u>OTHER</u>	1	0.1	0	0.0
TOTAL DISPOSITIONS FOR POLICE OFFICERS	<u>906</u>	<u>100.0</u>	<u>1062</u>	<u>100.0</u>

The Commissioner decided that no further action was warranted in 44, or 63.8% of those cases in which reviews were completed. 8, or 11.6% of the cases were withdrawn, while the Commissioner resolved the matter informally in another 7 (10.1%) cases. Of the 44 cases in which no further action was felt to be warranted, the Commissioner agreed completely with the Chief's decision in 35, or 50% of these cases and agreed in part with the Chief's decision in 9, or 13% of the cases. In another 5 or 7.3% of the reviews, the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaint's Board Hearing.

In all cases in which a Police Complaint Board hearing was not ordered, a review report was written by the Commissioner. An example of a review report may be found in Appendix III.

G. BOARD HEARINGS ORDERED BY PUBLIC COMPLAINTS
COMMISSIONER

In five or 7.2% of the review cases, the Commissioner ordered a Police Complaint's Board Hearing, the hearing was held, and a decision was reached. All but one hearing were three-person board hearings. These data may be found in Table 22.

Excluding those cases which were withdrawn and those cases in which informal resolutions were achieved, there were 54 cases which could ultimately have led to Police Complaint Board Hearings. The number of Board Hearings that were ordered (5) as a function of the number of cases that could have led to such hearings (54) was just under 10% (9.3%). Thus, Board Hearings were ordered by

TABLE 22

OUTCOME OF REVIEW OF COMPLAINT
BY PUBLIC COMPLAINTS COMMISSIONER

	<u>1982</u>		<u>1983</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
NO ACTION WARRANTED	13	76.5	44	63.8
CASE WITHDRAWN	2	11.8	8	11.6
INFORMAL RESOLUTION	1	5.9	7	10.1
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	1	5.9	5	7.3
THREE PERSON BOARD	0	0.0	4	5.8
ONE PERSON BOARD	<u>0</u>	<u>0.0</u>	<u>1</u>	<u>1.4</u>
 TOTAL CASES	<u>17</u>	<u>100.0</u>	<u>69</u>	<u>100.0</u>

the Commissioner in roughly one out of every ten cases in which the complainant requested a review (excluding withdrawals and informal resolutions).

Between December 21, 1982 and December 20, 1983 there were a total of 5 other cases where, following a review, the Commissioner ordered a Police Complaints Board hearing. These cases are not part of this year's data base, as the Board hearings were not completed by December 20, 1983 and, accordingly, the files were not closed.

Similarly, from December 21, 1983 to the time of the writing of this report (June 1, 1984), the P.C.C. had ordered 4 Board hearings (the Chief's designate also ordered 2 additional Board hearings in this period of time).

H. LENGTH OF TIME BETWEEN VARIOUS STAGES IN THE COMPLAINTS PROCESS

1. Time from Date Complaint Filed to Date Copy Received by P.C.C.

The number of days from the date a complaint was filed at the Bureau or a police station to the date the P.C.C. received a copy of the complaint was recorded. In 26.3% of the cases a copy of the complaint was received at the P.C.C. Office on the same day it was filed. Another 41.8% were received within one or two days of filing, while 22.9% were received within three or four days. In total, copies of the vast majority of complaint forms (98.7%) were received within one week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at the P.C.C. Office

was 2.2 days. The full list of days may be found in Table 23.

Pursuant to s. 6(3) of the Act, where a complaint is recorded at a police station, the person recording the complaint must immediately forward a copy of the complaint to the Bureau and to the P.C.C. In one case, the P.C.C. did not receive a copy of the complaint until 65 days after the complaint was reported. This lapse is explained by the fact that the complaint, which was received at a police station, was of a minor nature, and the sergeant at the station decided to resolve the matter informally. The Form 1 was sent to the P.C.C. along with the completed Record of Informal Resolution.

2. Time from Complaint Filing to Interim Report

An interim report on the investigation of each complaint must be completed by the Public Complaints Investigation Bureau of the Police Force, and forwarded to the complainant, the subject officer, and the P.C.C. within 30 days of the Bureau's receipt of the complaint. In a number of cases, the entire investigation was completed within the 30-day period. No interim report was required since the final report served the same purpose. For those cases in which an interim report was completed (507), the average number of days from the date a complaint was filed to the date of the interim report was 31.3 days. Thus, the processing of a complaint by the police with respect to the completion of an interim report was generally very close to the prescribed period. These data may be found in Table 24.

TABLE 23

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED

BY P.C.C.

	<u>No.</u>	<u>%</u>
SAME DAY	193	26.3
1-2 DAYS	307	41.8
3-4 DAYS	168	22.9
5-7 DAYS	57	7.7
8-15 DAYS	7	0.9
19-24 DAYS	2	0.3
65 DAYS	<u>1</u>	<u>0.1</u>
TOTAL CASES	<u>735</u>	<u>100.0</u>

\bar{X} DAYS = 2.2

TABLE 24

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	<u>No.</u>	<u>%</u>
6-21 DAYS	5	1.0
22-30 DAYS	222	43.8
31-40 DAYS	265	52.3
41-54 DAYS	<u>15</u>	<u>2.9</u>
TOTAL CASES	<u>507</u>	<u>100.0</u>

\bar{X} DAYS = 31.3

In only 15 or 2.9% of the cases were there significant delays between the filing of a complaint and the filing of the first interim report by the Bureau. The cases that exceeded the 30 day period were cases where the complaint originated outside the Bureau and time was spent in transmitting the complaint.

3. Time from Complaint Filing to Final Report
and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 0.4% of the cases, the final report was completed on the same day as the day the complaint was filed. This occurred in cases where an informal resolution was achieved immediately at the time the complaint was filed. In 28.4% of the cases, a final report was completed within 30 days of the date of filing. Another 28.1% of the cases were completed with a final report produced within 60 days of filing. Thus, in well over half of the cases (56.5%) a final report was produced within two months of filing. In roughly three quarters of the cases (73.7%) a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 75.5 days. These data may be found in Table 25.

The number of days from the final report to the date of the Chief's decision averaged 27.2 days. In 22.6% of

* "Final report" in this section refers to either a final investigative report of the Bureau or the Record of Informal Resolution.

TABLE 25

TIME FROM COMPLAINT FILING TO FINAL REPORT

	<u>No.</u>	<u>%</u>
SAME DAY	3	0.4
1-14 DAYS	63	8.3
15-30 DAYS	149	19.7
31-60 DAYS	213	28.1
61-90 DAYS	130	17.2
91-226 DAYS	164	21.7
227-359 DAYS	<u>35</u>	<u>4.6</u>
 TOTAL CASES	<u>757</u>	<u>100.0</u>

\bar{X} DAYS = 75.5

the cases, the Chief's decision came one week after the final report. In over two-thirds of the cases (67.5%) the Chief's decision was formulated within 30 days of the final report. These data may be found in Table 26.

The total number of days from the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, averaged 129.4 days.

4. Time from Chief's Decision to Request for Review

Any complainant has the right to to request a review of the Chief's decision by the P.C.C. The average number of days from the date of the Chief's decision to the date of a request for review was 38.6 days. The number of days ranged from 2 days in one case to a maximum of 274 days in another case. In roughly 60.0% of the cases (59.3%), requests for review were made within 30 days of the Chief's decision. These data may be found in Table 27.

5. Time from Request for Review to Decision by
Public Complaints Commissioner

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 147.1 days. 16.0% of the cases were completed within two months of the request for review while another 43.5% were completed within five months of the request. The remaining 40.5% of the cases required more than five months to complete. These data may be found in Table 28.

TABLE 26

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	<u>No.</u>	<u>%</u>
1-7 DAYS	99	22.6
8-21 DAYS	140	31.9
22-30 DAYS	57	13.0
31-60 DAYS	106	24.1
61-90 DAYS	9	2.0
OVER 90 DAYS	<u>28</u>	<u>6.4</u>
 TOTAL CASES	 <u>439</u>	 <u>100.0</u>

\bar{X} DAYS = 27.2

TABLE 27

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	<u>No.</u>	<u>%</u>
2-7 DAYS	19	27.5
8-14 DAYS	11	15.9
15-30 DAYS	11	15.9
31-60 DAYS	15	21.7
61-90 DAYS	6	8.7
OVER 90 DAYS	<u>7</u>	<u>10.3</u>
TOTAL CASES	<u>69</u>	<u>100.0</u>

\bar{X} DAYS = 38.6

TABLE 28

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	<u>No.</u>	<u>%</u>
12 DAYS	1	1.5
31-60 DAYS	10	14.5
61-90 DAYS	12	17.4
91-120 DAYS	10	14.5
121-150 DAYS	8	11.6
151-180 DAYS	7	10.2
181-210 DAYS	8	11.6
OVER 210 DAYS	<u>13</u>	<u>18.7</u>
 TOTAL CASES	<u>69</u>	<u>100.0</u>

$$\bar{X} \text{ DAYS} = 147.1$$

The 147.1 day average is a matter of some concern. It is true that a good review, which may include interviews with witnesses, analysis of forensic evidence and research into legal issues, takes time. Further, the course of a review may be prolonged by any number of factors, from the unavailability of witnesses to the fact that a trial in progress may provide additional information and must be monitored.

Other factors that account in part for the length of time it takes to complete a review have been isolated. One factor, for example, was the completion of the lengthy Hold-Up Squad report. Another is the fact that the number of complainants choosing to lay complaints at the P.C.C. office, and thus requiring lengthy intake interviews, has increased (20% in year 1; 24.8% in year 2 and 40.7% in the first quarter of the third year). Both of these factors have strained existing resources, leading to delays in completing reviews. However, at the present time, there is no backlog and all of our cases are current.

The Commissioner feels that 90 days is a more reasonable maximum time for the completion of a review, and efforts are being made to decrease the average length of a review to not more than 90 days.

I. OTHER CONTACTS WITH THE P.C.C.

During this year, in addition to the formal complaints lodged, there were an additional 331 recorded contacts made with the P.C.C. office by 291 people, concerning inquiries which, although they did not develop into complaints, took a substantial amount of time to resolve.

Of these 331 contacts, 68% were made by telephone, 12.4% were made by letter, while 19.6% appeared in person. It is estimated that each of these initial inquiries required approximately 30 minutes of an investigator's time to resolve in addition to any subsequent time spent on follow-up.

Of the 291 people who made enquiries to the P.C.C. office during this period, 39 or 13.4% were referred in various ways, including referrals from government agencies, lawyers, or aldermen.

In 78.5% of these contacts, people, inquired about specific incidents and wished to know whether or not they had a complaint within the P.C.C.'s jurisdiction. 11.2% of the contacts were requests for information about either the P.C.C. or the procedures set out in the legislation. 10.3% requested assistance in contacting members of the police force. The majority of these contacts involved some form of follow-up activity by the P.C.C. 253 additional telephone calls were made by investigators to aid in the resolution of these inquiries. 71 letters were written for the same purpose and 39 individuals interviewed. In 16 cases a subsequent follow-up appointment was made. In 4 of these cases the person inquiring attended this follow-up interview, while in 12 cases they did not.

110 or 33.2% of the contacts were made by people who wanted to lodge a complaint about a police officer on a police force other than the Metro Toronto Police. These complaints were not within the P.C.C.'s jurisdiction and were referred to the proper agencies.

In addition, various people were referred to the Metropolitan Toronto Police Force, the Law Society, municipal police authorities, Chiefs of Police in other jurisdictions, the Attorney General, the Ombudsman, the Ministry of Consumer & Commercial Relations, the Ministry of Labour and various Alderpersons.

PART IV

Police Complaints Board

PART IV - POLICE COMPLAINTS BOARD

A. BACKGROUND AND MEMBERS

The Police Complaints Board consists of 24 civilian members, all of whom are appointed by the Lieutenant Governor in Council. One-third of the members are recommended for appointment by the Attorney General; one-third of the members are recommended for appointment by Metro Council and the remaining one-third of the members are recommended jointly by the Metropolitan Toronto Board of Commissioners of Police and the Metropolitan Toronto Police Association. Most of the present members were appointed on June 16, 1982. Board members include respected judges, lawyers, religious and labour leaders, teachers and business people, with a variety of cultural and racial backgrounds.

During 1983 the resignation from the Board of Vibert A. Lampkin and Daniel G. Hill was regretfully accepted. Both Board members resigned due to the press of new duties; Mr. Lampkin as a Provincial Court Judge and Dr. Hill as the newly appointed Ombudsman of Ontario.

On February 24, 1984, the Attorney General announced the appointment of Edsworth M. Searles, a lawyer, as a member of the Police Complaints Board.

A brief resumé for each of the Board members follows:

Anne Barrett - Born and raised in Toronto. Graduated in 1963 with a Bachelor of Arts from York University and from Osgoode Hall Law School in 1974. Called to the Bar in 1976. Before beginning her legal career, was employed as an advertising copy writer and an occasional teacher of English in Toronto secondary schools. Since 1976 has practiced criminal and

family law. Since 1977 employed on a periodic basis as a fact-finder, mediator and arbitrator by the Education Relations Commission.

Brian A. Grosman, Q.C. - Born in Toronto. Graduated from University of Toronto with a B.A. and LL.B. and subsequently LL.M. from McGill University. Called to Bar of Ontario in 1961 and appointed Queen's Counsel in 1980. Practiced law in Toronto and Ottawa as a defence counsel and part-time prosecutor before joining the Faculty of Law at McGill University in 1965 where he taught criminal law, evidence, the administration of criminal justice and criminology. Appointed Professor of Law, University of Saskatchewan in 1971 and in 1974 appointed founding Chairman of the Law Reform Commission of Saskatchewan. Returned to practice of law in Toronto in 1979. The author of The Prosecutor: An Inquiry into the Exercise of Discretion: Police Command, Decisions and Discretions: New Directions in Sentencing and The Executive Firing Line: Wrongful Dismissal and the Law. Member of the Advocates' Society, the Advisory Council of the Human Rights Foundation of Canada and the editorial board of the Conflict Quarterly.

Stanley M. Makuch - Associate Dean, Faculty of Law, University of Toronto. Associate Professor of Law and Urban Planning, University of Toronto. Graduated in 1967 from University of Toronto with an Honours B.A. in History, an M.A. in History from Carleton University in 1968, an LL.B. from Osgoode Hall Law School in 1971 and an LL.M. in 1972 from Harvard Law School (specializing in local government and urban studies). Written widely on provincial and municipal legal and planning issues. Member of the Toronto Planning Board, 1977 to 1979 and Chairman of the Board's task force on planning in the 1980's. Research report on freedom of information in local government for Commission on Freedom of Information and Individual Privacy.

Dennis R. O'Connor, Q.C. - Graduated from Osgoode Hall Law School in 1964. Called to the Bar in 1966. Practiced law in Toronto from 1966-1973 when appointed a Magistrate for the Yukon Territory. From 1974 to 1976 a professor, Faculty of Law, University of Western Ontario. Appointed Queen's Counsel in 1980. Counsel with the firm of Borden & Elliot and Chief Negotiator for Government of Canada on the Yukon Indian Land Claim.

Edsworth M. Searles, Q.C. - Born in Toronto. Reared in Barbados where he attended elementary and secondary school. In 1945, he returned to Canada and completed studies at the University of Toronto. Called to the Bar in 1959, he is a founding member and the first president of the Rogest Delos Davis Law Association, the first black law association in Ontario. He is a former president of the Home Service Association and of the Universal Negro Improvement Association.

Roop Narine Sharma - Educated in England and at the University of Windsor, Faculty of Law. Legal Advisor and from 1968-1970, Crown Attorney, Government of Guyana. In private practice in east Toronto since 1977. President of Canada Hindu Organization, member of Board of Directors of Ward 7 News, member of Riverdale Inter-Cultural Committee, advisory member, South Asian Community Organization.

Judge Pamela A. Sigurdson - A Judge of the Provincial Court (Civil Division) since April, 1981. Graduate of Queen's University and of the University of Toronto Law School. Called to the Ontario Bar in 1968 and practiced law in Toronto until May, 1971 when she and her family moved to Montreal. Judge Sigurdson, who is bilingual, was called to the Bar of Quebec in 1972. While in Montreal, she was Executive Director and Counsel for the Centre for Public Interest Law. Practicing law in Toronto since 1974. Author of Small Claims Courts and Consumer Access to Justice. A member of the 1976 Consumer

Research Council of Canada and the Canadian Environmental Law Association. Former member of the Advertising Standard Council's Committee on Children's Advertising and a Director of the Canadian Broadcast League.

John Sopinka, Q.C. - Graduated from the University of Toronto in 1955, from University of Toronto Law School in 1958. Called to the Bar in 1960. Appointed Queen's Counsel in 1975. Member of the University of Toronto Blues football team (1954 Inter-Collegiate champions) and half-back with the Toronto Argonauts from 1955-1958. Member of the Advocates' Society, Canadian Bar Association, the Lawyers' Club, County of York Law Association and the Association of Trial Lawyers of America. Member of Board of Education for the Town of Oakville, 1967-1969. Founding Director of the Oakville Chapter of the Canadian Save the Children Fund. Founding Director of Kelso Music Centre. Member of the Executive of the Etobicoke Philharmonic Society. Acted in the following Commissions: Commission of Inquiry into the Coroner's Office of the Municipality of Metropolitan Toronto, Commission of Inquiry into Allegations against the Provincial Police of Ontario, Commission of Inquiry - The Royal Canadian Mounted Police Relationship with Department of National Revenue - Taxation, Chief Counsel, Commission of Inquiry on Aviation Safety.

David B. Archer - Past President, Ontario Federation of Labour. Past President of Textile Workers' Union, Local 1 and of the Toronto and Lakeshore Labour Council. Past vice-president of Canadian Labour Congress. Member of Ontario Labour Relations Board since 1948. Member of Board of Governors, York University. Has been associated with Toronto Symphony, United Appeal, Toronto Arts Foundation, St. John's Ambulance and the Housing Authority of Toronto.

Mary Louise Clements - Vice President, Institute of Donations and Public Affairs Research. Graduated from University of

Toronto with a B.A. in 1953. Past President, Children's Aid Society of Metropolitan Toronto. Member Board of Trustees of the United Way of Greater Toronto. Past President of the Junior League of Toronto. Founding member of Urban Alliance on Race Relations.

William Crothers - A Pharmacist. Placed second in the 800 metre race in the 1964 Olympics. Still holds record for the Canadian 880 yards and 800 metres. Graduated from the University of Toronto in 1963 with B.Sc. in pharmacy. Owns and operates a pharmacy in Markham. Member of Board of Directors of Children's Aid Society of York Region and former member of Participation House Markham.

Rabbi David A. Monson - Served as Rabbi of Shaarei Shomayim Congregation in Toronto from 1939 to 1943. Chaplain with the Canadian Army overseas from 1943 to 1945. In 1946 founded Beth Sholom Synagogue and serves as its Rabbi. Executive member of Junior Achievement of Canada, St. Alban's Boys and Girls Club, Speech Foundation of Ontario, Canadian Red Cross, Toronto Branch, Amyotrophic Lateral Sclerosis Society of Canada, The Winona Project of the Co-operative Housing Federation of Toronto, Inc. Member of Mount Sinai Masonic Lodge, The Royal Commonwealth Society, The Monarchist League of Canada, Toronto Lodge of B'nai B'rith, The Empire Club, The Canadian Club, Canadian Zionist Federation of Canada, Barband Labour Zionist Organization, The Association of World War II Chaplains of the U.S. and Canada, the Rabbinical Association of the U.S. and Canada.

William J. Popowich - A real estate appraiser and consultant. Served as Executive Committee Member on various social, religious and political organizations within the Ukrainian Community of Toronto, including as President of the Ukrainian Catholic Religion and Culture Society (Etobicoke). Grand Knight, Knights of Columbus, Shyptytsky Council 5079. Director

of St. Demetrius Church Committee and Cultural Society. Served as President of St. Demetrius Church Committee and Cultural Society. Member of the Etobicoke Planning Board since 1977 and Chairman in 1980-81. Member of the Board of Trade, Empire Club, American Right-of-Way Association, Knights of Columbus, Alpha Appraisal Association, St. Demetrius Ukrainian Catholic Religion and Culture Society, St. Demetrius Choral Society.

Rev. Robert L. Rumball - Graduated from the University of Toronto in 1952 and from Northern Baptist Seminary, Chicago, 1955. Received a D.D. degree in 1969 from Victoria University and an LL.D. from the University of Toronto in 1973. Executive Director of the Mission of the Deaf which operates the Ontario Community Centre for the Deaf and other facilities. In the 1950's played four years with the Ottawa Rough Riders and the Toronto Argonauts. In 1976 became a member of the Order of Canada. In 1978 given the Lion's Club International Humanitarian Award. In 1980 awarded the Paul Harris Fellowship by the Rotary Club. In 1982 awarded the Order of Merit by the City of Toronto.

Shamsher Singh - Involved with international consulting and trading industry. Former Executive Director of Intertask Limited, Ottawa and former economic counsellor to High Commission of India, Ottawa. Graduated in 1955 with Master of Arts (Economics) from University of Agra. Member of Rotary Club and Canadian Club.

James G. Westaway - Since 1980, President of Barbecon Inc., envelope manufacturers, fine paper merchants and office products dealer. Graduated from the University of Western Ontario, School of Business Administration, Honours B.A. Held various positions with Mercantile Bank of Canada and First National City Bank of Toronto; Port-of-Spain, Trinidad and Bridgetown, Barbados, 1965-72; Canadian Manager, Citicorp Leasing International, Toronto, 1972; President,

Toronto-Dominion Leasing Ltd., Toronto, 1973; Executive Vice-President, Barber-Ellis, Toronto, 1974; Member of numerous clubs and associations including Envelope Makers Institute of Canada; Canadian Paper Trade Association, Board of Trade of Metropolitan Toronto; Past Chairman of the Board, Y.M.C.A. of Metropolitan Toronto; Board and Executive Committee, National Council of Y.M.C.A.s of Canada; Past Chairman of Financial Development Committee Y.M.C.A.

Arthur L. Cole - Began a 40 year career in journalism while attending school in Belleville. Joined the Toronto Telegram in 1939. After war service in the Army he returned to Canada with the rank of Captain and in 1946 started as a reporter with the Globe and Mail. Returned to the Telegram in 1954 as City Editor, a post held until 1967 when he became United Nations correspondent for the paper. In 1968 became News Director of CFRB and four years later was named Director of Community Relations for the station, from which he recently retired. A Director of the Ontario Educational Communications Authority, Permanent Chairman of the Canadian News Hall of Fame, member of National Public Relations Advisory Committee, The Salvation Army, the Board of Trade, Toronto Press Club, and member of Advisory Committee, School of Journalism, Ryerson Polytechnical Institute.

Jay Hong - A metallurgical engineer. Graduated with B.Sc. degree from Inha Institute of Technology in Korea and with an M.Sc. degree from the University of Toronto. Chairman of the Board of Toronto Korean Bible Institute. Director of Toronto Korean Church T.V. Mission Programme. President of Mac's Franchise Dealers Association. Spokesman for Becker's Franchise Dealers Association. Representative Elder of Toronto Korean Presbyterian Church to Presbyterian Church of Canada.

Birthe Jorgensen - Criminologist and homemaker. Graduated from the University of Toronto with a B.A. in 1973 and studied at

Faculty of Law, University of Toronto. Received M.A. at the University of Toronto, Centre of Criminology in 1976. In January, 1979 began Ph.D. studies at the Institute of Criminology, University of Cambridge, England.

Herbert S. Levy - A former Judge of the Court of Canadian Citizenship. Former executive vice-president of Canadian B'nai B'rith. Ontario Commander of the Jewish War Veterans of Canada and Anti-Defamation League Commissioner for Canada. A former radio news commentator.

Kart Derrick McLennon - Training officer with Community Guardian Co. Ltd., which serves public housing projects. Previously a detective with the Jamaican Police Department. Graduated from Seneca College with social services diploma in 1977. Recently completed Human Resources Management course, Seneca College. Enrolled in Atkinson College, York University political science program. President of Tropicana Community Services Organization of Scarborough, Advisory Board Member, Scarborough Youth Services. Director of Social Planning Council of Scarborough

Clement W. Nusca - Part-time member, Ministry of Correctional Services, Ontario Parole Board. Formerly in the insurance industry. Speaks French and Italian. Director and President of Canadian-Italian Business and Professional Men's Association. Formerly with Italian Federal Police and Interpol.

John F. Santos - Immigration Delegate with the Portuguese Consulate in Toronto. Former Real Estate Broker. Former president of First Portuguese Canadian Club. Member of Canadian Consultative Council on Multiculturalism. Founder and Director of the Federation of Portuguese Canadian Business and Professionals of Toronto. Vice-President of National Soccer League and Chairman of its discipline committee.

B. BOARD HEARINGS

As of December 21, 1983, there had been six completed Board hearings. Five hearings were ordered by the Commissioner on the basis of complaints which came to the P.C.C. for review. One was an appeal by an officer of his conviction in an internal police inquiry conducted as a result of charges under the Police Act.

Hearings are held in a Royal Commission hearing room and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply, and all hearings are open to the public.

The following is a summary of the six decisions by the Police Complaints Board.

1. Re Janes and Lambert - January 4, 1983.
(Grosman, Nusca, Rumball)

Complainant was a juvenile living in a group home operated by the Children's Aid Society. The night the incident occurred a worker at the group home reported to the police that the juvenile was missing. He was out past his 10:00 p.m. curfew and on this night was not allowed to be out at all.

Two officers arrived at the group home, were advised of the facts and left. At approximately 1:30 a.m. the officers were asked to return as the complainant had returned. The juvenile complained that one of the officers took him outside and demanded to know where he had been. He refused to tell the officer, and he alleged that he was then "smacked" twice by the officer, threatened, grabbed by the hair and hit in the face with a closed fist.

The complainant also stated that the officers threatened to come back and beat him up if the staff at the group home could not control him.

The officer testified that he believed the youth was out with a 32 year old man who had been released from jail. He was also told that the staff of the group home were concerned about the complainant's whereabouts and that the complainant was very

uncooperative. The officer also thought that the complainant's refusal to cooperate was an effort to impress the staff of the group home. The officer admitted taking the complainant outside for this reason. He testified that when they were outside, the complainant swore at him and continued to refuse to divulge his whereabouts. The officer admitted raising his voice and demanding to know where the complainant had been. He testified that the complainant swore at him and made a quick move toward the stairs. The officer grabbed the complainant by the jacket and the complainant slipped and fell. The officer testified that he helped the complainant up and took him back inside. He stated that at no time did he strike or threaten to strike the complainant.

The officer's partner, who remained inside the house at all times, corroborated this testimony insofar as what happened inside the house. He also testified that the complainant did not complain about being assaulted or threatened when he returned to the house.

Both the subject officer and the complainant were represented by counsel. Counsel for the Board called the various witnesses and examined them. Counsel for the complainant and subject officer each cross-examined the witnesses and had an opportunity to call additional evidence. Submissions were then made to the Board. After considering the evidence and the submissions, the Board dismissed the complaint. It found that the only independent evidence was that of case workers in the group home, and that the only direct evidence they had to give was what they observed in the house. They did not observe the specific incident in question. The Board found the evidence of the complainant to be not sufficiently reliable to sustain the complaint.

2. Re Tennyson and Wark - March 23, 1983.
(Barrett, Archer, McLennon)

The complainant stated that on an evening in March, 1982, he and a friend had consumed a couple of beers at a neighbourhood tavern. When they came out of the tavern, at approximately 1:05 a.m., they were in high spirits and were jogging, joking and larking about. Two uniformed police officers on routine foot patrol in the area observed them and allegedly called them an insulting name. The complainant and his friend retaliated verbally and the police then started to chase them. The complainant and his friend outpaced the officers, lost sight of them and assumed the chase was concluded. The complainant carried on at a walking pace.

The complainant further alleged that an unmarked police car which had been going north on the east side of the street cut over to the west side of the street and pulled up beside him facing the southbound traffic. The officer driving the car jumped out of the car, grabbed hold of the complainant, threw

him against the car and banged his head three times on the trunk of the car. The complainant's front tooth was chipped and his lip was cut. The complainant claimed that the officer then twisted his arms around behind his back and handcuffed him tightly. He was taken to a police station and held there for about two and one-half hours before being charged with causing a disturbance.

Two police officers testified that they had observed the complainant and his friend laughing and joking and then yelling and screaming and jumping on lawns, kicking fences. They decided to arrest the pair for causing a disturbance. The officers denied that any insults were hurled, but said that they yelled "stop," at which point the complainant and his friend began to run away and the officers began to chase them. The officers radioed for a police vehicle and pointed out the complainant, who was about 100 yards down the street. The car pursued the complainant and pulled up beside him. One of the constables in the car stated that he showed his identification to the complainant, but that the complainant tried to escape. The officer stated that he grabbed the complainant's arm, at which point the complainant threw a punch which the officer ducked. The officer and his partner grabbed the complainant and forced him to the ground. They alleged that the injury to the complainant's tooth and lip occurred in the ensuing struggle when the complainant hit the sidewalk.

There was no independent evidence that exclusively supported either version of events. There were no independent witnesses and the doctor who treated the complainant stated that the injuries could have been caused either by a fall to the sidewalk or a banging on the trunk of a car.

The Board concluded that the evidence left it in some doubt, and that the benefit of that doubt belonged to the police officer. The complaint was dismissed.

3. MacFarlane and Cristiano - June 14, 1983.
(Sigurdson, Levy, Westaway)

The complainant, a cab driver, was stopped by a police officer for speeding. While he was talking to the police officer, the officer told him that he was also going to charge him with failing to have his identification photo card on display in the cab. The complainant told the officer that the photo was on display, however, the officer refused to come and look. The complainant went back to the cab, told the passenger what had happened and pointed out the photo card to her.

At the trial of the complainant for the two provincial offences, the officer testified that he checked in the cab for the photo identification and it was not there. However, the passenger in the cab testified that the identification card had been there.

The complainant filed a complaint with the P.C.C., and the Public Complaints Investigation Bureau of the police force reviewed the transcript of the trial evidence along with other evidence in the case. On reviewing the investigation file, the Chief of Police's designate decided that the officer would be charged under the Police Act. The officer was duly charged and was convicted under the Police Act. The penalty imposed was a demotion in rank. The officer appealed to the Police Complaints Board.

The Police Complaints Board heard evidence and the submissions of counsel. It also reviewed the transcript of the trial. The Board found that the complainant's evidence was credible and that the officer's evidence was inconsistent with the proven facts. The Board found that the officer had deceived the court and upheld the conviction. In regard to sentence, the Board stated that if the officer had been more senior, or had a more serious record of offences, it would have had no hesitation in ordering him dismissed. However, the Board took into account the youth and inexperience of the officer, his record of commendations, and the fact that previous infractions had been relatively minor and unrelated. The Board confirmed the sentence imposed at the hearing under the Police Act.

4. Re Tangredi and Boytchuk - August 3, 1983.
(Makuch)

The complainant alleged that a police officer had trespassed on his premises and assaulted him while using abusive language, and that the officer had warned the complainant that he should not complain.

The complainant testified that he was in the basement of his premises with a carpenter who was working for him when he heard someone upstairs call out his first name. He went up and found a police officer standing in the front lobby. The officer explained that he was there concerning a parking problem with a neighbour and indicated that the complainant had told someone to park in the neighbour's driveway. The complainant responded that he did not control parking and had not instructed anyone to park there. The officer's suggestion and the complainant's response were repeated two or three times at which point the officer allegedly grabbed the complainant by his shirt collar and pushed him against a wall six feet away. The complainant stated that he remained passive and the officer shouted insults at him. The complainant called out for the carpenter who came up the stairs. The complainant then asked the officer to leave, which he did only after being requested to leave two or three times. The complainant told the officer that he was going to report him, and the officer allegedly laughed and said it would not do any good.

The officer stated that he had been called to the premises in response to a complaint about a parking problem from a

neighbour. He went into the lobby of the building and called the complainant's first name. The complainant came up and the officer stated that he told him there was a parking problem, that the driveway was a private one, that the neighbour was the owner of the driveway and that the complainant should not tell people to park there. The complainant responded that he did not control the parking and did not tell people to park there and the officer contradicted him. At this point the officer alleged that the complainant got very upset and yelled insults. The officer stated that the complainant had a hammer in his hand and that it appeared as though the complainant would hit him, since he was flailing his arms. The officer denied touching the complainant or using obscenities, although he admitted raising his hand when the complainant was about four feet from him because of his perception that the complainant might hit him with the hammer. He also admitted raising his voice.

The carpenter attended to give evidence before the Board. He stated that the complainant was very upset when he reached the top of the stairs, and that the complainant was gesticulating with his arms. He also stated that the complainant's shirt was more undone than it had been earlier, and that he could not recall the complainant having a hammer with him.

The Board noted that both the officer and the complainant appeared to be honest and sincere and seemed to be telling the truth to the best of their recollection. There was a discrepancy in the officer's testimony about the hammer, and a discrepancy in the complainant's testimony in regard to shouting. Since the carpenter had not appeared on the scene at the time when the alleged assault might have taken place, there was no independent evidence as to whether it had occurred.

In regard to the allegation of trespass, the Board concluded on the evidence that the lobby in question should be viewed as a public area, serving the premises of both the complainant and his neighbour. Thus the officer was not found to have been trespassing.

In regard to the specific allegations that the officer had assaulted the complainant, the Board found that there was not sufficient evidence to warrant a finding of misconduct.

In regard to the allegation that the officer had told the complainant not to complain, the Board was not assisted by any independent evidence, as the carpenter could not confirm or deny hearing this statement. The Board therefore found that there was insufficient evidence to make a finding of misconduct.

6. Re Noble and McKay - June 30, 1983.
(Sopinka, Crothers, Santos)

A married couple filed separate complaints in regard to the same incident. Their complaints were investigated separately and a Board was appointed in each case. By agreement between counsel for all parties, one hearing before the Board sufficed for both complaints.

The husband was driving his car, and his wife was a passenger when he was stopped for speeding. The husband was questioned in regard to his alcohol consumption and the officer who had stopped the car demanded a breath sample. The wife, who wished to be a witness to the proceedings, attempted to speak to her husband while he was in the police car. An argument ensued when the husband attempted to leave the police car. The husband alleged that he was beaten, punched and kicked at the scene and later at the police station. The wife alleged that she was assaulted at the scene.

The husband alleged that while he was in the police car, he was struck by the officer. Thereupon he tried to leave the police vehicle and in the course of doing so, dragged the officer out of the vehicle.

The officer alleged that, while the husband was taking the breathalyzer test, the wife attempted to intervene and the husband attempted to leave the police vehicle. The officer stated that he was struck by the husband and that the couple dragged him out of the car and onto the pavement. The officer called for assistance and in a few minutes a number of police cars arrived to assist him in subduing the complainants. The complainants were taken to a police station where the husband was charged with assault on a police officer among other charges. The wife was charged with obstructing a police officer in the execution of his duty. The officer filed an injured on duty report in which he alleged that he sustained a cut left ear, cut right cheek and bruised right knee. He also stated that his glasses were broken when he was dragged out of the police vehicle by the complainants.

After his release from the station, the husband attended at a hospital where injuries were recorded. He sustained lacerations on and around his ears, a bruise on the rear of the left arm, a bruise on the back of the left leg, an injury to the back of the right leg and bruises on the spinal column, face, chest, thigh, and ankles.

The wife later attended a doctor's office. The doctor's report noted that she had sustained some soft tissue injury to her back, and that it appeared that a piece of her hair had been pulled out.

The Board reached separate conclusions on the two complaints. In regard to the wife, the Board, on reviewing the

evidence, found that she had intervened when her husband was in the police car, and had assisted her husband in his subsequent struggle with the officer. She was subsequently charged and convicted with obstructing a police officer, and the Board concluded that her injuries had resulted from her participation in the struggle. The wife's complaint was therefore dismissed.

In regard to the husband, the Board noted that he had been convicted of assaulting the officer as a result of the incident by the roadside. However, the Board heard considerable evidence as to the nature of the complainant's injuries as observed by the Sergeants on duty at the station when he was brought in. Both officers denied having seen significant injuries that were confirmed by a doctor after the complainant left the station. There was evidence given by another police officer that the subject officer had been alone in one of the rooms in the station with the complainant for six or seven minutes. The complainant's evidence was discrepant and unsatisfactory in some respects. However, the complainant's allegations as to being assaulted by the officer in the police station were supported by the nature of some of his injuries and by forensic evidence, including a forensic analysis, obtained by the P.C.C., that showed boot polish on his clothing. The Board concluded that the complainant's allegation of assault in the police station had been established.

After hearing submissions as to sentence, which included considerable evidence as to the officer's good character, the Board imposed a suspension without pay for two weeks.

The penalty imposed by the Board is being appealed by the complainant to the Supreme Court of Ontario. The finding of misconduct by the subject officer is also being appealed.

C. BOARD HEARINGS PENDING

Five of the seven Board hearings that were ordered by the Public Complaints Commissioner in 1983 were not completed in that year. As of June 1, 1984, six additional hearings had been ordered.

Decisions made by Boards in 1983-1984 will be summarized in the next Annual Report.

APPENDICES

APPENDIX I

Ontario Regulation 854/81 (General)

EXTRACT FROM ONTARIO GAZETTE

THE METROPOLITAN POLICE FORCE
COMPLAINTS PROJECT ACT, 1981

O. Reg. 854/81.

General.

Made—December 17th, 1981.

Filed—December 22nd, 1981.

REGULATION MADE UNDER THE
METROPOLITAN POLICE FORCE
COMPLAINTS PROJECT ACT, 1981

GENERAL

- 1.—(1) A complaint shall be recorded in Form 1.
- (2) The statement to be furnished under subsection 6 (2) of the Act to the person making the complaint shall be in Form 2. O. Reg. 854/81, s. 1.
2. The record of an informal resolution of a complaint shall be in Form 3. O. Reg. 854/81, s. 2.
3. An interim or final investigation report shall be in Form 4. O. Reg. 854/81, s. 3.
4. An investigation under section 9 of the Act shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint. O. Reg. 854/81, s. 4.
5. All information and evidence obtained in the investigation shall be recorded and preserved. O. Reg. 854/81, s. 5.
6. The investigator shall endeavour to interview the person making the complaint and the police officer concerned and to obtain written statements from them. O. Reg. 854/81, s. 6.
7. The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses. O. Reg. 854/81, s. 7.
8. The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs. O. Reg. 854/81, s. 8.
9. Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence. O. Reg. 854/81, s. 9.
10. The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint. O. Reg. 854/81, s. 10.
11. The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved. O. Reg. 854/81, s. 11.
12. Any information, notes or evidence, except physical evidence, that is required to be preserved under sections 5 and 11 shall be retained for a period of two years after the complaint is finally disposed of. O. Reg. 854/81, s. 12.

COMPLAINT

DATE and TIME REPORTED

Day	Month	Year	Time
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No 10916

COMPLAINANT		First Name		Initials		Date of Birth		Sex		Marital status	
Surname											
Home address		Postal Code		Telephone No. - Residence		Business address		Postal Code		Telephone No. - Business	
Date of incident		Time		Location						Division	
DETAILS OF INCIDENT (must be typewritten or printed)											
(SAMPLE)											
APPENDIX II (a)											
Use reverse side if more space required											
Photographs taken <input type="checkbox"/> NO <input type="checkbox"/> YES <input type="checkbox"/>											
Details of injuries sustained											
Attending Physician		Address		Telephone No.		Hospital attended		Date attended			
Name		Address		Telephone No.		Telephone No.		Telephone No.			
Name		Address		Telephone No.		Telephone No.		Telephone No.			
Did complainant interpreter?		YES <input type="checkbox"/> NO <input type="checkbox"/>		Language		Interpreter's name and address		Form 2 given to complainant		If no, state reason:	
OFFICER(S) INVOLVED								<input type="checkbox"/> Yes <input type="checkbox"/> No			
Name and Rank		Number		Unit		Platoon		Signature of Complainant			
COMPLAINT RECEIVED BY:		Number		Unit		Platoon		I CERTIFY THAT THE INFORMATION I HAVE GIVEN HEREIN IS TRUE			
Name		Rank		Number		Unit		Signature of Complainant			

DISTRIBUTION: Quadruplicate
 WHITE: Public Complaints Investigation Bureau
 BLUE: Public Complaints Commissioner
 PC/N 0026 (3/83)

PINK: Unit Commander of officer(s) in allegation
 YELLOW: S/Supt. (Supt) of officer(s) in allegation

OVER

APPENDIX II (b) Form 2

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

**POLICE COMPLAINT PROCEDURES AND RIGHTS
OF A PERSON MAKING A COMPLAINT**

To the Complainant:

This statement briefly sets out the procedures that will be followed upon receipt of your complaint against a member of The Metropolitan Toronto Police Force and your rights under the **Metropolitan Police Force Complaints Project Act, 1981**.

Who Sees Your Complaint

1. No matter where your complaint is recorded a copy of the complaint will be sent to the Public Complaints Commissioner and the Public Complaints Investigation Bureau (the Bureau) of the Metropolitan Toronto Police Force.
2. The police officer concerned will be informed of the substance of the complaint unless the investigation might be adversely affected if the police officer is so informed.

Informal Resolution

3. The person in charge of the Bureau will consider whether your complaint can be resolved informally and if this is possible he will attempt to do so, but only if he has your consent and the consent of the police officer concerned.
4. No complaint can be resolved informally unless both you and the police officer concerned agree in writing to the resolution.

Investigations and Reports

5. If the complaint is not resolved informally, the Bureau will investigate the complaint. The investigator will interview you, the police officer concerned and any other witnesses.
6. You will receive a report not later than thirty days after you make your complaint and on a monthly basis thereafter unless the investigation of the complaint might be adversely affected by a report or there are no new matters to report. The Public Complaints Commissioner will also receive these reports.
7. If at any time you are not satisfied with the manner in which your complaint is being handled you may contact the Office of the Public Complaints Commissioner, telephone: 963-1141
8. In certain situations the Public Complaints Commissioner may decide to do his own investigation before the Bureau completes its investigation.
9. When the Bureau investigation has been completed, a final report will be sent to you, the Public Complaints Commissioner, the chief of police and the police officer concerned.

Decision of the Chief of Police

10. The chief of police or his designate will review all investigation reports and make one of the following decisions:
 - i. Order further investigation.
 - ii. Decide that no further action is warranted.
 - iii. Cause a charge to be laid against the police officer and refer the matter to the Crown Attorney for prosecution.
 - iv. Refer the matter to the Police Complaints Board for a hearing.
 - v. Cause disciplinary proceedings to be taken against the police officer under the **Police Act**.
 - vi. Counsel or caution the police officer regarding his conduct.
11. You will be informed in writing of the decision made by the chief of police.

Review By Public Complaints Commissioner

12. If you are not satisfied with any of the following decisions you may request the Public Complaints Commissioner to review the matter:
 - i. The decision of the chief of police that no further action is warranted.
 - ii. The decision of the chief of police to counsel or caution the police officer regarding his conduct.
 - iii. The decision made in a disciplinary proceeding under the **Police Act**.
13. Upon receipt of your request, the Public Complaints Commissioner will review the matter, and his staff have broad powers to investigate. Documents must be made available, and individuals can be subpoenaed to answer questions.
14. After his review, the Public Complaints Commissioner may order a hearing before the Police Complaints Board where he feels that the public interest requires it. If he decides that there should not be a hearing, he will give you his reasons. The Public Complaints Commissioner will write to you, the chief of police and the police officer concerned about his decision.

Police Complaints Board Hearing

15. If a Police Complaints Board hearing is ordered, you will be notified in writing of the date and place of the hearing. You have a right to attend and take part in the hearing and to be represented by counsel or an agent. You will also be given an opportunity, prior to the hearing, to examine any written or documentary evidence or any report that will be given in evidence at the hearing. The hearing will be open to the public. You will receive a copy of the Board's decision.

Form 3

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

RECORD OF INFORMAL RESOLUTION OF COMPLAINT

Date of Complaint: May 1, 1982File No.: 1-6-82 (P.C.C. File No. 216)Complainant: John DoeName(s) of Officer(s) Concerned: P.C. John Smith, #111, No. 3 Traffic
(Include Rank, No. & Division)Sgt. John Jones, #444, 31 DivisionResolved by: Staff Sgt. Jackson, #555, --- Public Complaints
Investigation Bureau

Summary of Complaint and Investigation: The Complainant was involved in an accident on May 1, 1982. P.C. Smith and Sgt. Jones arrived on the scene and approached the Complainant in order to interview him. The first words that P.C. Smith uttered were, "You're an a....., look what you did". The Complainant also alleges that Sgt. Jones used profanity against him. Sgt. Jones then asked him for his driver's licence and proof of insurance. The Complainant feels that as he was not at fault for the accident Sgt. Jones should not have required him to produce his driver's licence and proof of insurance.

On May 8, 1982, received accident report form.

May 9, 1982, spoke with P.C. Smith who advised that prior to speaking with the Complainant he had to comfort the other driver involved in the accident who was badly injured as her head had banged against the windshield and caused excessive bleeding. He admits that he swore at the Complainant.

May 10, 1982, interviewed Sgt. Jones and he denies swearing at the Complainant, admits asking the Complainant for his driver's licence and proof of insurance but explains that this is lawful under the provisions of the Highway Traffic Act.

May 11, 1982, spoke with Complainant and arranged for a meeting on June 1, 1982.

Manner in which Complaint Resolved: Both the Complainant and P.C. Smith attended before the writer at which time P.C. Smith apologized to the Complainant for his outburst. The Complainant accepted P.C. Smith's apology and they shook hands.

The writer advised the Complainant of Sgt. Jones' denial and the Complainant agreed that he may have been mistaken about whether or not Sgt. Jones swore at him.

The writer advised the Complainant about Sgt. Jones' explanation that it was proper and lawful for him to ask for a driver's licence and proof of insurance under the Highway Traffic Act. The writer showed the Complainant the relevant sections of the Highway Traffic Act. The Complainant was satisfied with Sgt. Jones' explanation.

Both the Complainant and P.C. Smith signed Form 3 on June 1, 1982 and Sgt. Jones signed Form 3 on June 2, 1982.

I have read the record of informal resolution as described above.

I agree with the contents and am satisfied with the resolution.

Dated at Toronto, this 1st day of June, 1982.

Witnessed by:

"Staff Sgt. Jackson, #555"

"John Doe"

June 1/82

"Staff Sgt. Jackson, #555"

Signature of Complainant

"Sgt. John Jones"

(date)

June 2/82

"Staff Sgt. Jackson, #555"

"P.C. John Smith"

June 1/82

Signature of Officer Concerned

(date)

Example of Interim Report

Page 1 of 3 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: _____
2. Date of Report: November 4, 1982.
3. Type of Report: ☒ Interim ☐ Final
4. Name of Complainant: _____
5. Name(s) of Police Officer(s) Involved (Include Rank and No.) _____

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday October 2, 1982, 1:30 a.m., East side of Millwood Bridge
8. Description of Alleged Misconduct:

The complainant was arrested for driving while impaired. He was manhandled to the ground, handcuffed and taken for a breathalyzer test. After he had blown once into the machine, the officer started to adjust the dials and when the complainant questioned this, he was grabbed by the hair, whacked on the hand and taken to the cells, charged with refusing to supply a sample.

Investigation

9.

<u>Date</u>	<u>Location</u>	<u>Type of Investigation and Information Obtained</u>
October 4/82	Bureau	Complaint Form received at the Public Complaints Investigation Bureau.
October 5/82	Telephone	Investigator contacted the complainant and discussed the aspects of the complainant. Complainant does not agree to an Informal Resolution.
October 16/82	Telephone	Investigator obtained particulars from the Record of Arrest.
October 17/82	Telephone	Copy of Record of Arrest requested
October 17/82	Mail	Officers reports requested.
October 19/82	Bureau	Record of Arrest received.
October 27/82	Telephone	Investigator spoke with the complainant who advised his trial date was November 19, 1982. The complaint was discussed and the status of the investigation.
October 29/82	Bureau	Some officers reports received, returned for clarification.

10. Description and Analysis of Documentary and Physical Evidence obtained

<u>Type of Evidence</u>	<u>Description</u>	<u>Analysis</u>
Record of Arrest	For complainant	Indicates time, date, place of arrest, charges, names of officers and that the complainant had no apparent injuries and no complaints.

(INTERIM REPORT ONLY,
INVESTIGATION CONTINUING)

Dated at TORONTO, this 4th day of November, 19 82

"Signature of Investigator"
Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

Example of Final Report

Page 1 of 6 pages

Form 4

METROPOLITAN POLICE FORCE COMPLAINTS PROJECT ACT, 1981

Report

1. File No.: _____
2. Date of Report: December 6, 1982.
3. Type of Report : ☐ Interim ☒ Final
4. Name of Complainant: _____
5. Name(s) of Police Officer(s) Involved (Include Rank and No.) _____

6. Name of Investigator: Staff Sergeant

Summary of Complaint

7. Date, Time and Location:
Saturday, October 2nd, 1982 at 1:30 a.m.
East side of Millwood Bridge
8. Description of Alleged Misconduct:

See Interim Report dated November 4th, 1982 for Summary.

Investigation

9.

<u>Date</u>	<u>Location</u>	<u>Type of Investigation and Information Obtained</u>
December 3/82		See Interim Report for investigation to date.
December 3/82	Telephone	Investigator contacted the complainant and advised that the investigation was completed.

10. Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed

Summary of Statement
(include all relevant details)

.....

He was working with.....and they were on their way to a call.

He observed a van in front that appeared to be going well over the speed limit.

..... being the driver of the scout car, accelerated to a speed of 100 km/h and the van was still pulling away.

The van stopped and approached the driver and he approached the passenger side of the vehicle.

The complainant got out of the van and began to speak with advised the complainant he had been stopped for speeding, the complainant denied this.

He detected the smell of an alcoholic beverage coming from the complainant's breath and his speech seemed to be slurred.

..... advised the complainant he was under arrest for impaired driving and took hold of the complainant's right arm and asked him to go to the rear of the police car.

The complainant said, "No, I don't think you have the right."

He then took hold of the complainant's left arm after the complainant had again refused to go.

The complainant was placed up against the side of the car in order to search him. The complainant refused and folded his arms in front of himself when the officers went to handcuff him. The complainant suddenly pushed away from the side of the car and the officer was knocked to the pavement. The officer still had hold of the complainant and, as he fell, he managed to pull the complainant down.

While on the ground the officers managed to get the complainant's arms behind his back and place the handcuffs on him and search him. The complainant was placed in the rear of the scout car.

He went to the complainant's van and searched the interior and located full and empty bottles of beer. He then secured the complainant's vehicle as

Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed

Summary of Statement
(include all relevant details)

(con't)

best he could as two locks were not working.

The complainant was then transported to for breath samples. At the station the complainant was viewed. The Viewing officer again advised the complainant why he had been arrested.

The complainant was placed in a room and later taken for breath tests.

The complainant was later returned to the officers. The officer was advised that the complainant had refused to give suitable samples for an analysis to be made of his breath.

The complainant was then transported back to paraded before a Sergeant and placed in the cells to sober up.

.....

He corroborates the statement of and further adds, when the complainant was placed in the room at the station he requested a telephone call. The officer began dialing the number and the complainant then changed his mind and stated he would call his wife later.

The complainant also advised that he wished to call his lawyer. The officer informed the complainant that now was the time to call his lawyer, prior to the breath test. The complainant refused the call.

.....

He was the breathalyzer officer and the complainant was brought before him.

He interviewed the complainant, asked the complainant to supply a breath sample, which he did and the officer obtained a reading of 130 mgms.

The complainant then stated he wanted to see how the machine worked and his attitude became very abusive. The complainant would not listen to anything the officer said to him.

He began explaining how the machine worked and the complainant started to put his hands on the breathalyzer instrument and started to manipulate the balance wheel. He knocked the complainant's hand from the instruments and warned him not to touch the instrument. The complainant then began

10. Summaries of Statements of Complainant, Police Officer(s) and Witnesses

Person Interviewed

Summary of Statement
(include all relevant details)

to interfere with the instrument and he was again warned. The officer then knocked the complainant's hand away again.

The complainant again put his hand over the instrument and kept interfering with it, and was again warned.

He realized if he did not get the complainant out of the room, there would be a good possibility the machine would have been damaged.

He told the complainant to get out of the office, but he refused to leave. He then took hold of the complainant by the scruff of the neck and pulled him out of the seat and handed him over to the arresting officers.

During the time the complainant was in his presence he was arrogant, abusive and kept denying he was impaired.

After the complainant was removed from the office, he checked the machine and discovered the complainant had broken the bubbler and, without this it would have given a wrong reading.

He denies grabbing the complainant by the hair.

Sergeant from
.....

The complainant was brought before him, interviewed and then placed into a room to be interviewed by the Breathalyzer Technician.

The complainant made no complaint to him about the arresting officers or any complaint of injury.

The complainant did not complain about before being returned to

Sergeant, No.
.....

The complainant was brought before him and he observed that the complainant was under the influence of something, he later discovered to be alcohol.

The complainant was belligerent and was placed in the cell until the effects of the drink had worn off.

At the time of the complainant's release he was an entirely different person and was most co-operative.

As the complainant was walking out the door he

11. Description and Analysis of Documentary and Physical Evidence obtained

<u>Type of Evidence</u>	<u>Description</u>	<u>Analysis</u>
	inquired where Headquarters was, so that he could complain. He advised the complainant as to the location.	
Station Operator	He observed the complainant when he was brought into the booking hall. The complainant was given a phone call which he signed for and was then placed in a cell to sleep off the effects of alcohol.	
Record of Arrest	The complainant was arrested for Impaired Driving and Refuse Samples. Medical Notes indicates no apparent injury, advised of rights and no complaints.	
Alcohol Influence Report, for the complainant	Indicates one reading had been taken and then the complainant was removed from the office, as he was interfering with the machine.	

THE CHIEF OF POLICE OR HIS DESIGNATE WILL REVIEW THIS INVESTIGATION REPORT AND YOU WILL BE NOTIFIED OF HIS DECISION IN DUE COURSE.

Dated at TORONTO, this 6th day of December, 19 82.

"Signature of Investigator"

Signature of Investigator

Distribution: Complainant
Police Officer(s) Involved
Office of The Public Complaints Commissioner
File

Metropolitan Toronto Police

Example of Decision of Chief's
Designate



APPENDIX II (f)

JOHN W. ACKROYD, *Chief of Police*



590 Jarvis Street
Toronto, Ontario
Canada, M4Y 2J5

(416) 967-2222.

Please reply attention of
Executive Services

File No. [REDACTED]

December 29, 1982

[REDACTED]
Toronto, Ontario.
M4L 2J1

Dear Sir:

This is to advise that your allegations against the members of this Force listed below, have been investigated by the Public Complaints Investigation Bureau:

[REDACTED]

The Bureau's investigation has been reviewed by me in my capacity as Complaint Review Officer, and following are my comments and finding:

Allegation No. 1

You allege that [REDACTED] kicked in the door with his gun drawn.

Comments:

[REDACTED] denies this. He says that when he was half through the open door, you slammed it on his chest. In the livingroom, he saw you go for something on your side. He twice demanded you put your hands forward, but you didn't. The officer then unholstered his revolver. He states that you then put both hands forward and seeing that you had nothing in your hands, he re-holstered his gun.

The officer had reasonable and probable grounds to believe that your driver's licence was under suspension. He had stopped you the previous day driving a motor vehicle. The Highway Traffic Act, Section 35, makes it an offence to drive a motor vehicle if your licence is suspended.

Section 190 of the Highway Traffic Act gives an officer the power to arrest, without warrant, a person who he believes on reasonable and probable grounds has committed the above offence.

Continued - 2.

Comments re Allegation No. 1 - Continued.

Section 246 of the Criminal Code pertains to the offence of "Assault Police".

Section 25(1) of the Criminal Code justifies the use of as much force as is necessary to enforce the law.

The Metropolitan Toronto Police Rules and Regulations and The Police Act govern when an officer may use his service revolver.

Allegation No. 2

You allege that [REDACTED] kicked you down the steps on the front path of the house.

Comments:

[REDACTED] denies this allegation and his denial is corroborated by

A witness who saw the incident states that [REDACTED] walked you down the steps to the car.

Allegation No. 3

You allege that while being transported to the station, you were beaten in the back seat of the police car.

Comments:

[REDACTED] denies this. He states that you went berserk in the car and had to be held down all the way into the station. [REDACTED] corroborate [REDACTED] denial.

Allegation No. 4

You allege that when you arrived at [REDACTED] you were assaulted by other officers after which you were taken upstairs.

Comments:

[REDACTED] states that upon arrival at [REDACTED] he took you to the Officer in charge and then up to the Criminal Investigation Office. He denies assaulting you and his denial is corroborated by [REDACTED]

The Officer in charge states that you told him you had been fighting with the officer who arrested you and had a sore chest. You made no mention of having been beaten in the car or at the station.

The investigating Sergeants asked you how you injured your ribs and you told them that you had fallen down the stairs. You made no complaint to them of having been beaten.

While making your complaint at the Complaint Bureau, you said that you resisted the officer's attempt to arrest you.

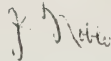
Continued -

Finding:

Based on the evidence available, I find that no action is warranted against the police officers.

If you are not satisfied with my finding, you have the right to request a further review of your complaint by contacting Mr. S. Linden, Q.C., the Public Complaints Commissioner. His office is located at 157 Bloor Street West, Toronto, Ontario, M5S 1P7.

Yours very truly,



J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm

Copies to: Public Complaints Commissioner,



APPENDIX III

Example of Report of the Public Complaints Commissioner
after a Review



Investigation of a Complaint

pursuant to

The Metropolitan Police Force Complaints Project Act, 1981

Reference No: 987

Complainant: Mr. A.

Investigator: Ms. J. Alphabet

REPORT

OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER

COMPLAINANT: Mr. A

DATE: May 31, 1983

The facts of this case may be briefly stated as follows:

On Saturday, September 4th, 1982, at approximately 1:37 p.m., the complainant, Mr. A, was riding his motorcycle, in the company of five friends on three other motorcycles, northbound on Markham Road. He and his friends were pulled over by an officer in a marked police vehicle which came up on the shoulder of the road and the officer honked his horn and motioned them over. Mr. A and his friends pulled over to the side of the road, a short distance north of Steeles Avenue. The police vehicle, driven by P.C. X, stopped in front of the group and a second police vehicle, driven by P.C. Y, pulled up behind them.

P.C. X then asked Mr. A and the operator of the second vehicle for their driver's licence, ownership and insurance. P.C. Y checked the third and fourth vehicles.

Mr. A states that when he pulled over, he asked P.C. X twice why he had been stopped and did not receive an answer. P.C. X states that he informed Mr. A. that his reason for stopping him was for an examination of his driver's licence, insurance and ownership papers. P.C. X requested information regarding height, hair colour and weight. The helmets of all parties were checked and one person received a Provincial Offences Notice for not having a proper CSA sticker in his helmet.

According to Mr. A, the motorcyclists were allowed to proceed at approximately 2:05 p.m.; the police officers left the area at 2:10 p.m.

On September 22nd, 1982, Mr. A met at the scene with Sergeant Z from the Public Complaints Investigation Bureau, of the Metropolitan Toronto Police Department and agreed that the officers had not seriously interfered with traffic. One witness states the officers caused a bit of a slow down in traffic but that there was no unusual movement of traffic. Another witness stated that the officer's driving on the shoulder of the road was no hazard to traffic. P.C. X admits that he was driving on the right shoulder of the road because he wanted to stop and investigate Mr. A and his friends.

In his letter requesting a review, dated December 16th, 1982, Mr. A writes:

"The Highway Traffic Act states that a police cruiser may travel on the shoulder of the road in the performance of duty, however, all subsections of this clause are obviously written for emergency use; i.e., ambulance, cardiac arrest, etc. For an officer to use this section in order to pull over four motorcyclists who have committed to moving violation and who have no obvious equipment violations, is a misapplication of the law...".

The second issue in this review is whether or not a police officer may stop a motorist merely to check his driver's licence. Mr. A writes,

"To be the subject of harassment whether because of a person's race, colour, or the type of vehicle one has, is wrong ... For a police officer to pursue four law-abiding drivers, pass traffic on the shoulder of the highway during this pursuit, detains drivers and passengers for 30 minutes ... is, I believe, arbitrary and unnecessary. ... I feel that what happened was wrong; that a law-abiding citizen should be free from actions such as these ...".

The two issues in this review will be addressed separately.

I. The Right of the Police Officer to Drive on the Shoulder of the Road

The evidence in this review shows that the subject officer drove on the right shoulder of the road in order to stop and investigate Mr. A and his friends. His authority to do so depends on Section 129 of the Highway Traffic Act. Section 129 is the result of an amendment to the Highway Traffic Act through "Bill 150" in 1981. This relatively new section provides:

"129. - (1) The driver of a motor vehicle may overtake and pass to the right of another vehicle only where such movement can be made in safety and,

- (a) the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn;
- (b) is made on a highway with unobstructed pavement of sufficient width for two or more lines of vehicles in each direction; or
- (c) is made on a highway designated for the use of one-way traffic only.

(2) No driver of a motor vehicle shall overtake and pass another vehicle by driving off the roadway.

(3) Subsection (2) does not apply to the driver of,

- (a) a motor vehicle overtaking and passing to the right of another vehicle where the shoulder to the right of the roadway is paved and the vehicle overtaken is making or about to make a left turn or its driver has signalled his intention to make a left turn;
- (b) an ambulance or fire department vehicle as defined in section 43;
- (c) a police department or Ministry emergency vehicle; or

- (d) a tow truck where the driver is responding to a police request for assistance.
1981 c. 48, s. 17".

Clearly, only subsection 129(3)(c) is relevant to the facts of this case, but the precise meaning of this subsection appears to be the source of some confusion.

In the final report of the Bureau, at page 5, Section 129(3)(c) is listed as exempting police vehicles from Section 129 (2) and Section 124(1)(a) is cited as authority for the proposition that "emergency vehicle" includes a vehicle while used by a person in the lawful performance of his duties as a police officer. It would appear that the subject officer interpreted his right to pass the vehicle on the paved right shoulder of the highway in the same way. However, Section 124 (1)(a) reads:

"124. - (1) In this section,

(a) "emergency vehicle" means,

- (i) a fire department vehicle while proceeding to a fire or responding to, but not returning from a fire alarm or other emergency call,
- (ii) a vehicle while used by a person in the lawful performance of his duties as a police officer,
- (iii) an ambulance while responding to an emergency call or being used to transport a patient or injured person in an emergency situation, or
- (iv) a cardiac arrest emergency vehicle operated by or under the authority of a hospital;"

Section 124, in its entirety, deals with signal lights and Section 124(1) clearly and unambiguously restricts this particular definition of emergency vehicle to this section

(Section 124(1), "In this section"). Accordingly, the definition does not apply to Section 129.

Some confusion may arise from the use of the Office Consolidation of the Highway Traffic Act by members of the public. In the Index to this office consolidation, under the heading "Emergency Vehicle", the words and section "definition....124(1)(a)" is indicated. This might lead a reader without legal training to take the Section 124(1)(a) definition of "emergency vehicle" as a general definition which applies to the whole Highway Traffic Act. There is, of course, no such error in the official statutes, but because the pocket version is in such frequent use throughout the province, the misleading indexing in the pocket edition could easily serve to misinform both police officers and members of the public.

Any general definitions are usually found in the interpretation section of the appropriate statute.

In Section 1 of the Highway Traffic Act, there is no general definition of "emergency vehicle". It is, therefore, helpful to look at other sections of the Highway Traffic Act which deal with emergency vehicles, although there are not that many of them. In R. v. Walker (1979) 48 C.C.C. (2d) 126 at 130, Zalev, Co. Ct. J. comments,

"The Highway Traffic Act provided no exemption whatsoever for any emergency vehicle until 1941 when the Act was amended to provide that speed limits did not apply to fire department vehicles proceeding to a fire or answering a fire alarm call. Although amendments from time to time were made to the section providing for such exemption, it was not until 1963 that

the Act was amended to include an exemption for a motor vehicle operated by a person in the lawful performance of his duties as a police officer. Over 30 years have elapsed since Hubbs/R. v. Hubbs (1947), 90 C.C.C. 45, /1947/ O.W.N. 802 (H.C.) and 15 years since the speed limit exemption was extended to police vehicles, but in all that time, the Legislature has not seen fit to extend this exemption to any other provision of the Highway Traffic Act."

In 1981, in Bill 150, the Legislature did see fit to add two new exemptions to the Highway Traffic Act. One was a revamped s. 129, which gave "a police department or Ministry emergency vehicle" the right to pass to the right and the second section was an entirely new s. 135a which prohibits backing on a paved expressway shoulder. Section 135a introduced in the same bill and at the same time as Section 129 reads:

"135a. - (1) No driver of a vehicle shall back the vehicle upon the roadway or shoulder of any highway divided by a median strip which the maximum speed limit is in excess of 80 kilometres an hour.

(2) Subsection (1) does not apply to,

- (a) the driver of an ambulance or fire department vehicle as defined in Section 43;
- (b) the driver of a police department or Ministry vehicle; or
- (c) a person attempting to render assistance to another person. 1981, c. 48, s. 18."

It is important to observe that Section 135a(2)(b) refers to a "police department or Ministry vehicle" not "emergency vehicle" as in Section 129. Section 135a introduced a prohibition where none previously existed. It is, therefore, arguable that the exemptions to this new prohibition were deliberately kept as wide as possible.

For example, a person attempting to render assistance to another person would not be prohibited from backing his vehicle on an expressway. Furthermore, any driver of a police department vehicle is permitted to back a vehicle on the shoulder of a highway, and no emergency or special circumstances of any kind need exist.

Passing to the right of a vehicle on a paved shoulder, on the other hand, has only been allowed in limited circumstances for a long time and before the 1981 amendment to the Highway Traffic Act, there was no exemption given either to a vehicle used by a person in the lawful performance of his duties as a police officer, a police emergency vehicle or an emergency vehicle of any kind.

The new section 129 was restructured to prohibit passing to the right by driving off the roadway entirely and then in Section 129(3) four exceptions are set out. Here, rights previously non-existent were given in Section 129(3) (b), (c) and (d). These newly given exemptions are limited rights, implicitly restricted to situations of real difficulty. The word "emergency" modifying "vehicle", in Section 129 (3)(c) was added for a purpose and the absence of the word "emergency" in Section 135a cannot be attributed to the Legislature by inadvertence, but rather by intention.

It is a well-established rule of statutory construction that a reader of statutes has the right to assume that every word has meaning and function.^{1.}

If the Legislature had wished all police vehicles to be covered by the exemption in Section 129 (3)(c), it could have chosen simply to use "police vehicle" as in Section 135a (2)(b), or it could have chosen to specify "a vehicle while used by a person in the lawful performance of his duties as a police officer" such as was done in Section 124 (1)(a)(ii). Alternatively, Section 129(3)(c) could have specifically referred to a definition in another section, as was done in Section 129 (3)(b) with respect to "ambulance" and "fire department vehicle."

As the Act now stands, it is my opinion that only a police department emergency vehicle is exempt from the rule in Section 129(2) prohibiting vehicles from overtaking and passing another vehicle by driving off the roadway, and "emergency vehicle" appears to mean a vehicle used in a situation of real emergency or difficulty.

In this case, there is no evidence whatsoever that there was any kind of emergency. According to the subject officer himself, the decision to stop the vehicles was taken "for the purpose of enforcing the Highway Traffic Act." Accordingly, in my view, it was improper for the officer to pursue a group of vehicles by driving along the right shoulder of the road in the absence of an emergency situation.

However, the position of emergency vehicles in the whole of the Highway Traffic Act is so unclear that it would be inappropriate to fault the officer. It was not unreasonable for him to read "police department emergency vehicle" as including a "vehicle while used by a person in the lawful performance of his duties as a police officer."

In fact, this is the way the Bureau read the Section. Until the position of "emergency vehicles" in the Highway Traffic Act is clarified, some confusion will persist. Only after a close analysis of Section 129, encompassing the history of the legislation and including a comparison of Section 129 with other relevant sections, was it possible to reach the above conclusion.

Although it is my view that the officer's vehicle was not an "emergency vehicle" within the scope of Section 129, it may be briefly noted, that case law has been quite clear in outlining the duty of care which a driver of a bona fide emergency vehicle owes to other users of the road. Even where priority of passage is given to emergency vehicles, it is not an absolute right and there is still a duty to exercise due care, attention and reasonable consideration for other users of the highway. (See Segal, Manual of Motor Vehicle Law at p. 9-63). In this particular case, the evidence suggests that P.C. O'Connor's driving posed no hazard to other users of the highway.

II. The Right of a Police Officer to Stop a Motorist

The second issue in this review is the right of an officer to stop a vehicle under the Highway Traffic Act. The relevant legislation provides:

ss. 189a(1) & (2)

- (1) A police officer, in the lawful execution of his duties and responsibilities, may require the driver of a motor vehicle to stop and the driver of a motor vehicle, when signalled or requested to stop by a police officer who is readily identifiable as such, shall immediately come to a safe stop.

- (2) Every person who contravenes subsection (1) is guilty of an offence and on conviction is liable to a fine of not less than \$100 and not more than \$2,000 or to imprisonment for a term of not more than six months, or to both.

s.19

- (1) Every driver of a motor vehicle shall carry his licence with him at all times while he is in charge of a motor vehicle and shall surrender the licence for reasonable inspection upon the demand of a constable or officer appointed for carrying out the provisions of this Act.
- (2) Every person who is unable or refuses to surrender his licence in accordance with subsection (1) shall, when requested by a constable, give reasonable identification of himself, and, for the purposes of this subsection, the correct name and address of such person shall be deemed to be reasonable identification.

Furthermore, every police constable, who on reasonable and probable grounds, believes that any person has committed a contravention of subsection 189a (1) or 19(2) may arrest such person without a warrant, (s.190(2) H.T.A.).

Section 189a is relatively new law which was added to the H.T.A. in 1981 and was part of "Bill 178." Bill 178 also added s. 30a to the Act. Section 30a(1) provides:

- (1) A police officer, readily identifiable as such, may require the driver of a motor vehicle to stop for the purpose of determining whether or not there is evidence to justify making a demand under section 234.1 of the Criminal Code (Canada).

Section 189a(1) provides for a general power to stop a driver when a police officer is acting in the lawful execution of his duties, while s.30a(1) provides for a specific power to stop in order to determine whether a motorist has consumed alcohol.

The introduction of Bill 178 followed a decision of the Ontario Court of Appeal in the case of Regina v. Dedman (1981) 32 O.R. (2d) 641, in which the issue of a police officer's power to stop a motorist was discussed at length. That case is presently under appeal to the Supreme Court of Canada.

In the Dedman case, a police officer, operating a R.I.D.E. spot check, signalled Mr. Dedman to stop. Mr. Dedman complied with this request to stop, at which time the officer asked him for his driver's licence. While the two were speaking, the officer smelled a strong odour of alcohol and demanded that Mr. Dedman provide a sample of his breath into a road-side screening device.

The question that the Court of Appeal was asked to decide, was whether Mr. Dedman, in view of the above circumstances, would have a reasonable excuse for failing to comply with the officer's demand for a breath sample, since the officer had no reason to believe that Mr. Dedman had committed any offence at the time he signalled him to stop.

The Court of Appeal found that since Mr. Dedman voluntarily complied with the officer's signal to stop it was not necessary to deal with the issue of police power to stop a vehicle in order to render its decision. Nevertheless, the court did make some general comments.

At page 652, the Court of Appeal states the following:

"The Act /H.T.A.7 does not, however, unlike the highway traffic legislation in some provinces, empower a constable to arrest without warrant a motorist who fails to obey a signal to stop.

...Since the respondent complied with the officer's signal to stop, I am not required to decide whether, in the circumstances, the officer in giving a signal to stop was validly exercising an implied power under s. 14 /now s.19/ of the H.T.A., or was validly exercising a power ancillary to his general duties to protect persons and property and to detect crime, thus rendering the respondent, had he not stopped, liable to arrest for wilfully obstructing a peace officer in the execution of his duties. Those are questions of some difficulty requiring careful consideration which should be reserved and decided on the facts of a particular case if and when it becomes necessary to do so. It is, of course, within the competence of the Legislature and Parliament to place the matter beyond question."

Although the Court of Appeal refrained from deciding whether an ancillary or implied power existed, it did make the following statement:

"Mr. Justice Maloney /of the H.C.J./ when he stated that a police officer has a power to stop a vehicle in order to demand production by the driver of his licence when that is the officer's true purpose, was, I think, using the term in the sense that in those circumstances a police officer signalling a driver to stop is validly exercising a power that exists by necessary implication for the due execution of his duties under s.14 /now s.19/ of the H.T.A. In any event, the proposition that such an ancillary power exercisable in proper circumstances, exists commends itself to me. There is statutory authority for the existence of implied or ancillary powers. Both The Interpretation Act R.S.O. 1970, c. 225, s. 27(b) and The Interpretation Act, R.S.C. 1970, c. 1-23, s.26(2) provide that where a power is given to a person, officer or functionary to do or enforce the doing of any act or thing, all such powers shall be understood or deemed to be also given as are necessary to enable such a person to do or enforce the doing of the act or thing."

The decision of the Ont. C.A. in R. v. Dedman reversed two lower court decisions (of the Prov. Ct. per Charles, Prov. Ct. J. and the Ont. High Court of Justice per Maloney, J.) which had addressed the question of whether the police officer had the power to stop the vehicle in the Dedman case and had decided that the stopping of Mr. Dedman's vehicle by an officer of the R.I.D.E. spot check programme was not authorized by any law and was an unjustifiable interference with Mr. Dedman's personal liberty.

The Court of Appeal, however, approached the question of whether there was unjustifiable interference with Mr. Dedman's liberty in a different manner. It stated that a distinction must be made between a legal liberty, that is, something that a person may do without breach of the law, and a legal right, which the law will enforce, to do something or not to be prevented from doing something. The officer in Dedman was entitled to signal the respondent to stop, in the sense that in so doing he was not in breach of any law, and was not committing a crime or committing any tort against the motorist. It concluded that on the facts of the case, Mr. Dedman was not unlawfully detained and stated, starting at page 656:

"In Donnelly v. Jackman 1 All E.R. 987, a police officer approached the accused on the street for the purpose of making inquiries about an offence which the officer suspected the accused had committed, and when the accused ignored the officer's request to stop and speak to him, the officer tapped the accused on the shoulder to attract his attention, whereupon the accused struck the officer with some force. The Queen's Bench Divisional Court in dismissing the accused's appeal from his conviction for assaulting a police officer in the execution of his duty, said that it was not every trivial interference with the citizen's liberty that amounted to a course of conduct sufficient to take the officer out of the course of his duties.

I do not consider that the signal to stop given by a police officer to a motorist is any greater interference with the liberty of the citizen than tapping a person on the street on the shoulder in order to attract his attention for the purpose of questioning him."

The Court of Appeal further drew support for this proposition from the Supreme Court of Canada decision in R. v. Chromiak (1980) 49 C.C.C. (2d) 257. In that case, the erratic manner in which Mr. Chromiak was driving attracted the attention of a police officer who signalled him to stop. Mr. Chromiak stopped. The officer then requested him to perform certain sobriety tests and he complied. The officer believed that Mr. Chromiak's ability to drive might be impaired and requested a breath sample. Mr. Chromiak refused to provide the sample, saying he wanted his lawyer present on the street before taking any tests. The police officer then wrote out an appearance notice and permitted Mr. Chromiak to go on his way in view of the fact that his companion was sober.

The issue in the Chromiak appeal was whether Mr. Chromiak had been deprived of the right to retain and instruct counsel within s.2(c)(ii) of the Canadian Bill of Rights, R.S.C. 1970, App. III. The S.C.C. dismissed the appeal and held that Mr. Chromiak was not "detained" within the meaning of s. 2(c) of the Canadian Bill of Rights.

The Court of Appeal in R. v. Dedman quotes Ritchie, J. of the S.C.C. in the Chromiak decision (49 C.C.C. (2d) 257 at pages 262-3) as follows:

"It appears to me to be obvious that the word "detention" does not necessarily include arrest, but the words, "detain"

and "detention" as they are used in s. 2(c) of the Bill of Rights, in my opinion, connote some form of compulsory restraint and I think that the language of s. 2(c)(iii) which guarantees to a person "the remedy by way of habeas corpus for the determination of the validity of his detention and for his release if the detention is not lawful," clearly contemplates that any person "detained" within the meaning of the section is one who has been "detained" by due process of law. This construction is supported by reference to ss.28(2)(b), 30, 136(a), 248 and 250 of the Criminal Code where the words "to detain" are consistently used in association with actual physical restraint.

...

In the present case, after the appellant had co-operated in furnishing the preliminary sobriety tests he was allowed to go away, and as I have indicated, I am of the opinion that he was at no time detained.

In view of all the above, I have concluded that the appellant was not a person who had, while "arrested and detained" been deprived of the right to "retain and instruct counsel without delay" and I am unable to find any reasonable excuse for his failure to comply with the demand made to him by the peace officer."

In the Appellate Division of the Supreme Court of Alberta, Clement, J.A. said (46 C.C.C.(2d) 310 at 317-18):

"I am of the opinion that the word "detained" as used in s.2(c)(ii) refers to the case of a person held against his will, one who is not free to depart when he pleases.

In essence what happened here was that when Chromiak was faced with the demand he said, in effect and to speak colloquially, "Thanks, but no thanks". He was not arrested nor detained: he was left free to go, and to go in his car since his companion would be driving..."

The new Canadian Charter of Rights contains a section similar to s.2 (c) in the former Bill of Rights. Section 10 of the Charter provides:

10. Everyone has the right on arrest or detention
 - (a) to be informed promptly of the reasons therefor;
 - (b) to retain and instruct counsel without delay and to be informed of that right; and
 - (c) to have the validity of the detention determined by way of habeas corpus and to be released if the detention is not lawful.

Section 9 also provides:

Everyone has the right not to be arbitrarily detained or imprisoned.

The word "detention" has so far been given the same meaning as it had in the Bill of Rights per R. v. Chromiak where the word "detained" was held to connote some form of compulsory restraint.^{2.}

In 1981, the Ontario Legislature decided to take steps to place the matter of police powers to stop a vehicle under the H.T.A. beyond question and introduced Bill 178. The wording of s. 189a clearly gives a police officer in the lawful execution of his duties and responsibilities the express authority to require a motorist to stop. The phrase "in the lawful execution of his duties and responsibilities" was added to s. 189a(1) by the Standing Committee on the Administration of Justice after Second reading because some concern had been expressed in the Legislature about the expansion of police powers in this particular area and the potential for too many arbitrary

stops. The Bill itself came about because of a desire for amendments in the drinking and driving area and particularly to ensure the continuation of random spot checks such as the R.I.D.E. programme. However, while s. 30a deals specifically with such programmes, s. 189(1)(a) is of general application. In the end, the new legislation was strongly supported by all three parties in the Legislature and the Bill became law when it received Royal Assent on December 18, 1981.³

In R. v. Dedman, the Court of Appeal stated at page 647:

"The primary functions of the police at common law are to prevent crime, to protect life and property, and to detect and apprehend offenders. The latter function involved the gathering of evidence not only to warrant laying a charge against a specific individual, but to establish his guilt (if he be guilty) in a court of law. The control of highway traffic has also become an important police function in modern times: 30 Hals. (3d), p. 129; The Report of the Canadian Committee on Corrections, p. 39".

The Police Act, R.S.O. 1980, c.381, s.57 provides:

57. The members of police forces appointed under Part II, except assistant and civilian employees, are charged with the duty of preserving the peace, preventing robberies and other crimes and offences, including offences against the by-laws of the municipality, and apprehending offenders, and commencing proceedings before the proper tribunal, and prosecuting and aiding in the prosecuting of offenders, and have generally all the powers and privileges and are liable to all the duties and responsibilities that belong to constables. R.S.O. 1970, c. 351, s.55

In the High Ct. of Justice decision in R. v. Dedman, Maloney, J. makes frequent reference to the English case,

R. v. Waterfield et al, /1964/ 1 Q.B. 164 (C.C.A.), in which Ashworth J. at pp. 170-1 said:

"In the judgment of this court it would be difficult, and in the present case it is unnecessary, to reduce within specific limits the general terms in which the duties of police constables have been expressed. In most cases it is probably more convenient to consider what the police constable was actually doing and in particular whether such conduct was prime facie an unlawful interference with a person's liberty or property. If so, it is then relevant to consider whether (a) such conduct falls within the general scope of any duty imposed by statute or recognised at common law and (b) whether such conduct, albeit within the general scope of such a duty, involved an unjustifiable use of powers associated with the duty.

Thus, while it is no doubt right to say in general terms that police constables have a duty to prevent crime and a duty, when crime is committed, to bring the offender to justice, it is also clear from the decided cases that when the execution of these general duties involved interference with the person or property of a private person, the powers of constables are not unlimited."

Maloney, J. comments that:

"The Waterfield test for the validity of police actions has been applied by the Supreme Court of Canada in R. v. Stenning /1970/ 3 C.C.C. 145, 10 D.L.R. (3d) 224, /1970/ S.C.R. 631, and again in Knowlton v. The Queen (1973), 10 C.C.C. (2) 377, 33 D.L.R. (3d) 755, /1974/ 443."

The powers of a constable to stop a vehicle were expanded by the addition of s.189a to the H.T.A. in Ontario. A police officer, on duty, and pursuing his responsibility to enforce the H.T.A. may pull a vehicle over to the side of the road merely to verify a driver's licence or request proper identification. The question of whether there is an unjustifiable interference with a motorist's liberty when he or she is stopped by a police officer for no specific reason remains a thorny one.

RECOMMENDATION

The Ministry of the Attorney General should study the emergency vehicle provisions in the H.T.A. in order to:

1. Clarify the position of emergency vehicles in the Act as a whole, and
2. Clarify or define what an emergency vehicle is in the particular sections of the Act in which no definition exists.

In my review of Mr. A's case, I noted that the position of emergency vehicles in the H.T.A. is unclear. The section 124 (1)(a)(ii) definition of "emergency vehicle" applies only to s.124 and should not be interpreted by the police community to be a general definition for the whole Act. Historically, there were few exemptions given to emergency vehicles and perhaps the infrequent but piecemeal addition of a new section now and again has resulted in some inconsistency. An overall review of the appropriate sections of the H.T.A. would be beneficial, with special attention being paid to wording, consistency and clarity. Any subsequent changes should be made only after an examination of the policy behind the exemption of emergency vehicles in the context of the entire Act.

SIDNEY B. LINDEN
Public Complaints Commissioner

SBL/vmz

1. Maxwell on the Interpretation of Statutes Twelfth Edition, by P. St. J. Langan, London: Sweet and Maxwell, 1969.
At page 36.

Driedger, E.A. The Construction of Statutes, Toronto: Butterworths, 1974, at page 73.

In Hill v. William Hill (Park Lane Ltd.) [1949] A.C. 530 at pp. 546-547, Viscount Simon said,

"The rule that a meaning should, if possible, be given to every word in the statute implies that, unless there is good reason to the contrary, the words add something which would not be there if the words were left out."

2. Numerous cases, usually roadside breathalyzer cases have discussed the meaning of detained or detention in sections 9 and 10 of the Charter of Rights, see, for example:

R. v. Denton (Aug. 11, 1982), 8 W.C.B. 417 (Alta. Prov. Ct., Enright, Prov. Ct. J.)

A motorist who is stopped, albeit arbitrarily for a vehicle check is not detained within the meaning of section 9. R. v. Chromiak (S.C.C.) was applied.

R. v. Altseimer (1982) 38 O.R. (2d) 783 (Ont. C.A.)
No detention per section 9 of the Charter.

R. v. Chromiak cited.

R. v. Holman (July 15, 1982) 8 W.C.B. 257 (B.C. Prov. Ct., McCarthy Prov. Ct. J.)

Accused was not "detained" per section 9.
Chromiak applied.

R. v. Hennessey (Aug. 26, 1982), 8 W.C.B. 419 (Alta. Prov. Ct., McMeekin Prov. Ct. J.)

R. v. Chromiak (S.C.C.) applied.

R. v. Wesley (August 18, 1982, Alta, Prov. Ct., Aunger Prov. Ct. J.)

R. v. Chromiak applied.

R. v. Pasenko (Aug. 31, 1982, Alta. Prov. Ct., Horrocks Prov. Ct. J.)

A motorist who is placed in a police cruiser which he cannot leave without the assistance of the police, and who was then transported to a police station for the purposes of complying with a breathalyzer demand is detained within the meaning of section 10.

R. v. Allan (Sept. 14, 1982, Alta. Prov. Ct., Stevenson Prov. Ct. J.)

R. v. Engen (Sept. 29, 1982) Alta. Prov. Ct., Clozza Prov. Ct. J.)

The word "detention" in a section connotes some form of compulsory restraint. In this case an accused having been given a breathalyzer demand, was placed in a police cruiser, driven some 30 km., searched en route and kept at a police station until the tests were completed. In those circumstances he was under some form of compulsory restraint and was temporarily confined.

R. v. Stoyles (October 25, 1982, Nfld. Prov. Ct., Scott Prov. Ct. J.)

The detention contemplated by s.10 is some sort of compulsory restraint.

R. v. Anderson (January 26, 1983) 9 W.C.B. 163 (Ont.Co.Ct., Soubliere Co. Ct. J.)

No detention within the meaning of section 10, - detention requiring that the accused was being held against his will.

R. v. Wicklum (Jan. 19, 1983) 9 W.C.B. 178 (B.C. Co.Ct.
Gansner, Co. Ct. J.)
No arrest or detention per s.9.

R. v. Eng (Dec.20, 1982) 9 W.C.B. 200 (B.C. Prov. Ct.,
Davies Prov. Co. J.)
It could be said that every instance in which a person
complied with a breathalyzer demand did not amount
to a "detention" within the meaning of the Charter -
here, the accused was detained once he was placed in a
police wagon for conveyance to the police station.

R. v. Sifert (Oct. 28, 1982) 9 W.C.B. 205 (Sask. Prov.
Ct., King Prov. Ct. J.)
No detention per s. 10 of the Charter.

R. v. MacDonald (Nov. 30, 1982) 9 W.C.B. 207 (Alta. Prov.
Ct., Maher, Prov. Ct. J.)
No arrest or detention per Charter.

Contra: R. v. Therens (July 30, 1892) 8 W.C.B. 380
(Sask. Prov. Ct., Muir Prov. Ct. J.)
This case is the only case that suggests that "detention"
in s.10 should not necessarily be interpreted in the
same way as in s.2(c) of the Bill of Rights.

3. Legislature of Ontario Debates 1981
Bill 178. Ministerial Statement - 3963
First Reading - 3977
Second Reading - 4440, 4511, 4531
Third Reading - 4857, 4903
Royal Assent - 4932.

4. See Maxwell on Interpretation of Statutes. 12th ed.
by P. St. J. Langan. London: Sweet & Maxwell, 1969,
at p. 147-48.



Office of the
Minister

Ministry of
Transportation and
Communications

APPENDIX III(a)

Ferguson Block
Queen's Park
Toronto, Ontario
416/965-2101

July 22, 1983.

Sidney B. Linden, Esq., Q.C.
Public Complaints Commissioner
157 Bloor St. West
Toronto, Ontario
M5S 1P7

Dear Mr. Linden:

As you are aware, The Honourable Roy McMurtry, Q.C. forwarded to me a copy of your letter of June 2, 1983 regarding the Metropolitan Toronto Police Force Complaints Project Act, 1981, complaint of Mr. A. File No. 987.

It is unfortunate that investigation of this complaint was apparently substantially complicated by a lack of clarity in subsection 129(3) of the Highway Traffic Act. Prior to Bill 52 which was given First Reading on May 7, 1981, and which was withdrawn in favour of Bill 150 which was given Royal Assent on November 19, 1981, there was no specific offence for driving on the lefthand shoulder of expressways and the law with regard to passing on the righthand shoulders of highways generally had some deficiencies. This made it very frustrating for the police in dealing with such unsafe practices, particularly on highways such as 401 in the Metropolitan area.

Subsections 2 and 3 of section 129 were enacted in an effort to correct this situation. Clause (3)(a) preserved an existing exception with regard to passing on the right and it was recognized that it was desirable to articulate specific exemptions with regard to vehicles which should have freedom to use these shoulders in situations where the roadway is jammed by vehicles because of a collision or stalled vehicles.

The most obvious candidates for exemption were ambulances, fire department vehicles and police department vehicles. It was felt to be desirable to give the extended meanings to ambulance and fire department vehicles which are set forth in section 43 of the Act. It was felt that certain vehicles of the Ministry of Transportation and Communications should be exempted, but whereas in section 135a it was necessary to exempt all Ministry vehicles from the prohibition against backing up on shoulders, this being a manoeuvre commonly required by our highway maintenance vehicles, the exemption with regard to passing stopped vehicles on the shoulders was limited to "Ministry emergency vehicles" such as the emergency patrol vehicles which we operate in the Metropolitan Toronto area on Highways 401, 404, 409 and 427 to render assistance to motorists in difficulty, which frequently includes assisting the OPP as required.

The intention of clause (3)(c) is that the exemption be given to police department vehicles and Ministry emergency vehicles. We were not aware that the police department operated a part of their fleet as a separate category of vehicles which they would consider to be emergency vehicles, and we had no intention of granting the exemption to only a sub-category of police department vehicles. The intention was probably more clearly set forth in the explanatory note to section 17 of Bill 150 which stated that "an exemption is provided for ambulances, fire department, police department and Ministry emergency vehicles and tow trucks responding to a police call".

I regret that the drafting of this provision has caused this confusion and we shall give consideration to inserting "vehicle" after the words "police department" in clause (c).

I have no comments to offer with regard to the specific action of the police in this matter but I should mention that there is currently considerable concern over the increasing number of fatal motorcycle accidents at a time when all other fatal motor vehicle accidents are on the decline. My Ministry recently sponsored a 1-day seminar on motorcycle safety in which a wide variety of interested and knowledgeable parties participated. In analyzing our statistical information for the purposes of this seminar we were startled to find that it appears that some 38% of the drivers of motorcycles who were killed in 1982 did not have licences to operate motorcycles. One of the chief recommendations which came out of this seminar was that the police increase their enforcement of the requirement that drivers of motorcycles be properly licensed. In terms of public safety we would obviously prefer that unlicensed motorcyclists be identified before they become involved in accidents rather than afterwards. Unfortunately, it is inherently difficult to fulfil this objective without causing inconvenience to motorcyclists who do in fact hold the proper authority.

I am sure that we all hope that the police will succeed in playing their difficult role with respect to these inherently dangerous vehicles while avoiding the impression that they are "harassing" one segment of the driver population.

With kindest regards, I remain,

Yours sincerely,



James Snow,
Minister.

cc: The Honourable Roy McMurtry, Q.C.
The Honourable George Taylor, Q.C.

Metropolitan Toronto Police



APPENDIX IV(a)

JOHN W. ACKROYD, Chief of Police



590 Jarvis Street
Toronto, Ontario
Canada, M4Y 2J5

(416) 967-2222.

Please reply attention of
Executive Services.

19355
File No.

October 12, 1983

Mr. Sidney B. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor Street West,
TORONTO, Ontario.
M5S 1P7

Dear Sir:

Re: Morrish Road Incident

I have been asked by Chief John Ackroyd to acknowledge and reply to your letter of October 4, relative to our response to your recommendations.

1. On September 2, 1983, Chief Ackroyd made a news release and later in the day, held a press conference, apologizing for the conduct of some members of our Force. The press conference was attended by representatives from the press, television and radio.
2. On September 12, 1983, I forwarded letters of apology to all but one of the persons who registered complaints. The lone exception is a person who has commenced an action against Chief Ackroyd and the Force. Metro Legal Department attempted to settle the matter, but the plaintiff declined. The matter will be going to trial and we were, therefore, requested by Metro Legal, not to make an apology in this case.
3. Five persons instituted claims against the Force, in Small Claims Court. All five have been settled through Metro Legal Department and did not go to trial. Refer to the previous response, relative to an action, still pending, in the County Court.

4. A reminder has been published in Routine Orders, relative to the existing regulations pertaining to the wearing of police caps and badges, as well as identification numbers.
5. Our Operational Planning Unit is reviewing our procedure on "Disorderly Crowds". As I read through your file on Morrish Road, I made notes of areas which could be improved or addendums made in our current procedure. A memo setting out 11 points was forwarded by me, to Operational Planning, included in which was a recommendation for additional supervisors.
6. Two of my recommendations pertained to more mitre sets being made available at such incidents, as well as more upward, downward and lateral communication at the scene.
7. Another of my recommendations was that upon arrival at the scene, all personnel, as well as being instructed on the basic strategy, also be advised not to act unless directed by a supervisor.
8. Another recommendation was that each supervisor appoint a constable to keep accurate and complete notes of the event.
9. All officers present at Morrish Road attended a refresher course on crowd control and baton training, at our Police College.

Police officers attend our Police College every three years on a 13 day in-service course. Other courses are held touching on such subjects as dealing with juvenile offenders, drug investigation courses, plainclothes duties, investigative techniques, instructional techniques, etc. In the last few years, we have instituted courses which all personnel were required to attend, such as policing a multi-cultural society, crisis intervention, use of the Tonfa baton, and currently, a course on C.P.R. (cardio pulmonary resuscitation). While it is necessary to furnish all personnel with not only basic, in-service and special training courses, a balance must be struck with operational requirements, particularly in a period of budget restraints. It is, therefore, not practical at the present time, to increase in-service training.

Yours truly,



J. Noble,
Deputy Chief of Police,
Executive Services.

The following letter was in response to a recommendation made by the P.C.C. following a review of a complaint involving a citizen who was arrested for "breach of the peace". The police force, after seeking the advice of the Attorney General's office, agreed with the Commissioner's recommendation and implemented the routine order that is referred to in the letter.

Metropolitan Toronto Police



APPENDIX IV(b)

JOHN W. ACKROYD, *Chief of Police*



590 Jarvis Street
Toronto, Ontario
Canada, M4Y 2J5

(416) 967-2222

Please reply attention of
Executive Services

File No.

November 22, 1983

Mr. S. Linden, Q.C.,
Public Complaints Commissioner,
157 Bloor St. West,
Toronto, Ontario.
M5S 1P7

Dear Mr. Linden:

Further to our recent conversation, I am
enclosing a copy of Routine Order No. 699 of May 25, 1983, pertaining
to "Breach of the Peace".

Yours very truly,

A handwritten signature in dark ink, appearing to read "J. Noble".

J. Noble,
Deputy Chief of Police,
Complaint Review Officer.

JN:wm
Encl.

METROPOLITAN TORONTO POLICE

HEADQUARTERS

ROUTINE ORDERS

by

CHIEF OF POLICE JOHN W. ACKROYD

590 Jarvis Street
Toronto, Ontario
M4Y 2J5

BREACH OF THE PEACE

The Metropolitan Toronto Police Force is in receipt of advice from the Attorney General's office regarding Section 31 of the Criminal Code which describes a peace officer's power to arrest for "breach of the peace."

Members are hereby reminded that Section 31(1) of the Criminal Code defines the police officer's power to arrest for breach of the peace, but does not create an offence for which a person can be convicted.

It provides that:

"Every peace officer who witnesses a breach of the peace and everyone who lawfully assists him is justified in arresting any person whom he finds committing the breach of the peace or who, on reasonable and probable grounds, he believes is about to join in or renew the breach of the peace."

The definition which has been adopted by the Supreme Court of Canada is that quoted in Frey v. Fedoruk (1950) 97 C.C.C. 1 which states:

"A breach of the peace takes place when either an actual assault is committed or an individual or public alarm and excitement is caused. Mere annoyance or insult to an individual, stopping short of actual personal violence is not a breach of the peace."

The cases, however, are not completely clear as to the circumstances in which it is appropriate to arrest for breach of the peace as some go further than others. Based on the

recent decision of Regina v. Lefevre (1982) 67 C.C.C. (2d) 446 and R. v. Atkinson (1981) 58 C.C.C. (2d) 215, it would now seem to be clear in the eyes of the law that a simple noisy party or trespass without violence or alarm or threat of violence or alarm would not fall within the scope of Section 31.

As such, the Attorney General's office has advised us that a peace officer, where possible, should arrest a person under Section 450 of the Criminal Code for a specific offence rather than rely on the rather uncertain interpretation of Section 31. Section 450(1)(a) also authorized a peace officer to arrest a person without warrant if, on reasonable and probable grounds, he believes that a person is about to commit an indictable offence.

It is now clear that in the future, violence whether actual or apprehended, will have to be an essential element before one can arrest a person for "breach of the peace."

Members are, therefore, advised that in most circumstances Section 450(1) of the Criminal Code will apply and unless the conduct satisfies the above definition of "breach of the peace," the police officer should arrest under Section 450(1).

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the Public Complaints Commissioner

A civilian service set up
to resolve disputes between
You and Your Police.



Sidney B. Linden, Q.C.
Public Complaints
Commissioner

During the course of this pilot project I am hopeful that I will be able to count on the support of the citizens of Metropolitan Toronto, the Metropolitan Police Force and the Metropolitan Toronto Police Association.

I am confident that the expressions of goodwill received since my appointment as Public Complaints Commissioner will continue to provide a foundation for an atmosphere of co-operation and mutual respect that will ensure the success of this unique experiment.

Sincerely,

SIDNEY B. LINDEN, Q.C.
PUBLIC COMPLAINTS COMMISSIONER

Mr. Linden is a native of Toronto who, until his appointment as Public Complaints Commissioner, was a prominent member of the criminal bar and a well-known labour arbitrator. He was General Counsel to the Canadian Civil Liberties Association and served on its Board of Directors. He was Vice-President of the Criminal Lawyers Association and also active on the Legal Aid Committee of the Law Society of Upper Canada.

Questions & Answers

about police complaints in Metropolitan Toronto

New procedures are now in place for handling complaints from members of the public against police officers on the Metropolitan Toronto Police Force. This new system is a marked departure from the previous one where the police alone were responsible for these matters.

A citizen can now lodge a grievance directly with an independent civilian who is not connected with the police in any way. This person, the Public Complaints Commissioner, has the power to do his own investigation, completely separate from that conducted by the police. He is responsible for making sure that all complaints concerning allegations of misconduct are dealt with promptly and fairly.

As well, he may order a public hearing by the newly-established Police Complaints Board. The members of this Board are also independent civilians.

The Public Complaints Commissioner is in a position to identify those police practices or procedures which may be particularly productive of citizen complaints and he can recommend that appropriate changes are made to remedy these situations.

To assist the public, the Office of the Public Complaints Commissioner has assembled answers to the following common questions often put to it about the Metropolitan Police Force Complaints Project Act, 1981.

Question

Where do I make a complaint about the conduct of a police officer on the Metropolitan Toronto Police Force?

Answer

You may make your complaint at any one of the following locations:

- a) the Office of the Public Complaints Commissioner, 157 Bloor Street West, Toronto, Ontario M5S 1P7, telephone: 963-1141.
- b) the Metropolitan Toronto Police Public Complaints Investigation Bureau, 3080 Yonge Street, Toronto, Ontario M4N 3N1, telephone: 967-2367.
- c) any police station in Metropolitan Toronto (telephone 967-2222 for the station closest to you).

Question

When does the Public Complaints Commissioner become involved with my complaint?

Answer

IMMEDIATELY. No matter where you make your complaint, a copy is sent to the Office of the Public Complaints Commissioner. He monitors the investigation from the start.

Question

Who will investigate my complaint?

Answer

Initially, your complaint will be investigated by a police officer from the Public Complaints Investigation Bureau of the Metropolitan Toronto Police Force. The Bureau is a separate unit within the Force.

If it is possible for your complaint to be resolved informally, the officer in charge of the Bureau may attempt to do so, but only if you and the police officer involved agree.

Question

Can the Office of the Public Complaints Commissioner investigate my complaint?

Answer

YES. The Public Complaints Commissioner can conduct his own civilian investigation 30 days after you make your complaint. In some situations, the Public Complaints Commissioner can start his own investigation immediately.

Question

When do I find out about the status of my complaint?

Answer

In general, within 30 days of making a complaint, you will receive an interim report on the investigation done up to that time. You will also receive further reports during the course of the investigation and a final report when it is completed. All of these reports are in writing.

Question

What happens after the final investigation report is made?

Answer

The Chief of Police will review the matter, decide what action, if any, is to be taken, and give written notice of his decision to you, the Public Complaints Commissioner, and the police officer concerned.

Question

What if I am not satisfied with the decision made by the Chief of Police?

Answer

You may ask the Public Complaints Commissioner to conduct a review. He may order that a public hearing be held by the Police Complaints Board, if he believes that it is in the public interest to hold such a hearing.

Question

What is the Police Complaints Board?

Answer

The Police Complaints Board is a group of civilians specifically appointed to conduct hearings into citizens' complaints about the conduct of police officers on the Metropolitan Toronto Police Force. The Public Complaints Commissioner is the Chairman of the Board and he assigns members of the Board to conduct these hearings.

Question

Do I have the right to attend the Police Complaints Board hearing and take part in it?

Answer

YES. You will be notified in writing of the date of the hearing. A lawyer will present the case to the Board but you may choose to be represented by your own lawyer or an agent. You will also be given a chance, before the hearing, to examine any written evidence or any report that will be given in evidence at the hearing.

Question

If the Police Complaints Board finds that the police officer is guilty of misconduct, what penalties can it impose?

Answer

The penalties that can be imposed by the Police Complaints Board depend on the nature of the misconduct. The maximum penalty that the Board can impose is dismissal of the police officer from the Metropolitan Toronto Police Force.

Question

What if I want to complain about a police officer who does not belong to the Metropolitan Toronto Police Force?

Answer

Consult a member of the police force concerned, the local board of commissioners of police or the local municipal council. You may also contact the Ontario Police Commission, 25 Grosvenor Street, Toronto, Ontario M4A 2G9, telephone: 965-6071.

Question

What if I want to charge a police officer with a criminal offence or sue the police officer in the civil courts?

Answer

Your right to take either of these alternatives is not affected by this new complaints procedure.

You may charge a police officer with a criminal offence by attending at the office of a Justice of the Peace. For the office nearest you, telephone 965-7541.

If you want to sue a police officer, you should contact a lawyer.

All civil suits and some criminal charges must be started within six months of the date the incident occurred.

Question

Where can I get more information about the Metropolitan Police Force Complaints Project Act?

Answer

You can obtain a copy of the Act from the Ontario Government Bookstore, 880 Bay Street, Toronto, Ontario, telephone: 965-2054.

As well, you can telephone the Office of the Public Complaints Commissioner at 963-1141.

If you make a complaint, you will be given a document that sets out the procedures that are followed and your rights under the Act.

The Metropolitan Police Force Complaints Project Act, 1981, was proclaimed December 21, 1981. The project is funded by the Ontario Ministry of the Attorney General and the Municipality of Metropolitan Toronto.



The Office of the
Public Complaints Commissioner

157 Bloor Street West, Toronto, Ontario M5S 1P7
Telephone: 963-1141



own lawyer. The maximum penalty the Board can impose is dismissal of the police officer from the force.

An appeal of the Board's decision can be made to the Divisional Court.

(Persons wanting more information about how to lodge a complaint can contact the Office of the Public Complaints Commissioner at 963-1141 or contact the Law Society's Dial-a-Law program at 947-3333.)

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APPENDIX V(b)



HOW TO FILE A POLICE COMPLAINT

Office of the Public Complaints
Commissioner, 157 Bloor Street
West, Toronto, Ontario, M5S 1P7

963-1141



In some circumstances the Commissioner may decide to conduct his own investigation.

Complainants may contact the Commissioner's office if they are dissatisfied at any time with the way a complaint is being handled.

At the conclusion of the investigation the Chief of Police will review the reports and may order further investigation; decide no further

action is warranted; cause a criminal charge to be laid against the police officer and refer the matter to the Crown attorney for prosecution; refer the matter to the civilian Police Complaints Board for a hearing; cause disciplinary proceedings to be taken against the police officer under the Police Act; or Counsel or caution the police officer regarding his conduct.

Complainants who are not satisfied with the decision of the Chief of Police may request the Public Complaints Commissioner to review the matter further.

The Public Complaints Commissioner and his staff have broad powers to

investigate. They can demand documents, subpoena individuals for questioning, and apply to a Justice of the Peace for a search warrant.

After his review, the Commissioner can order a public hearing before the independent, civilian Police Complaints Board if he feels that would be in the public interest.

One-third of the Board's members have had training in law and have been recommended for appointment by the Attorney General; one-third on the recommendation of Metro council, and one-third on the joint recommendation of the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association. One of each group of appointees sits on each major hearing; whereas the legally-trained member sits alone on minor hearings.

The complainant will be notified of the hearing date. Counsel for the Board will present the case to the Board, but the complainant may choose to be represented by his or her

A member of the public with a complaint against a Metropolitan Toronto police officer may make the complaint at any police station within Metro, to the Public Complaints Investigation Bureau of the police, or to a civilian agency, the Office of the Public Complaints Commissioner. The civilian Commissioner receives a copy of every complaint no matter where it is made.

The complaint will be investigated initially by the Police Force's Investigation Bureau. The officer from the Bureau may attempt to resolve the complaint informally, but only if the complainant and the subject officer agree in writing to the resolution. Informal resolutions are reviewed by the Public Complaints Commissioner.

If no informal resolution is achieved, the Bureau will further investigate the complaint and must provide written reports every thirty days until the investigation is completed. These reports are sent to the complainant, the Chief of Police, the subject officer and the Public Complaints Commissioner.

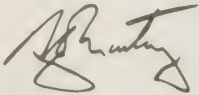
Help us make it work.

If you have a complaint against the Metropolitan Toronto Police Force a new, independent service is available to help you. This service, headed by a civilian commissioner, is designed to resolve disputes between the police and the public they serve and protect.

Under the new law, passed by the Ontario Legislature, you can:

- Lodge a complaint directly with the office of the Public Complaints Commissioner.
- Get a written interim report on the status of the complaint if it is not resolved within thirty days.
- Get a final written report at the conclusion of the investigation.

The commissioner may direct a completely independent investigation into your case. If the commissioner considers it in the public interest, he may order a full public hearing before a civilian review board.



R. Roy McMurtry
Attorney General



Paul Godfrey
Metropolitan Toronto
Chairman

The Commissioner

He's Sidney Linden, Q.C., former general counsel to the Canadian Civil Liberties Association and Vice-President of the Criminal Lawyers Association and a citizen with a strong social conscience. He is the newly appointed independent Public Complaints Commissioner and his responsibility is to review all complaints against the police.

"I have the highest regard for him as a civil libertarian and for his appointment... He is a most credible person and an excellent lawyer." - Dr. Don Hill, Special Adviser to the Mayor's Committee on Race and Community Relations, Toronto.

"I for one, have great confidence in Mr. Linden." - Alan Borovoy, Canadian Civil Liberties Association.

"... His reputation is excellent and completely acceptable." - Robert Nixon, Liberal M.P.P. and former Opposition Leader.

"The Council feels that Mr. Linden is a very capable criminal lawyer and will discharge his responsibilities with great awareness and with fair dealing." - Multicultural Council in Greater Toronto.

The system is set up to work for you. You have a personal contact. The essential ingredient is you. Help us make it work. For information please call 963-1141.



APPENDIX V(d)

ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਵਿਚ ਸਾਡੀ ਮੱਦਦ ਕਰੋ

ਜੇ ਤੁਹਾਨੂੰ ਮਿਟੋਪੋਲੀਟੀਅਨ ਟਰਾਂਸ ਪੁਲੀਸ ਵਿਭਾਗ ਕੋਈ ਡਿਕਾਰਿਤ ਹੈ ਤਾਂ ਇਕ ਅਜਿਹੀ ਸੇਵਾ ਤੁਸੀਂ ਪ੍ਰਾਪਤ ਕਰ ਸਕਦੇ ਹੋ ਜੋ ਤੁਹਾਨੂੰ ਹੁਣ ਚਾਹੁੰਦੀ ਹੋਈ ਹੈ ਅਤੇ ਫਿਲਕੁਲ ਆਜਾਦ ਹੈ। ਇਹ ਸੇਵਾ ਪੁਲੀਸ ਅਤੇ ਲੋਕਾਂ ਦੇ ਵਿਚ ਪੈਦਾ ਹੋਏ ਭਾਵਾਂ ਨੂੰ ਨਿਪਟਾਉਣ ਲਈ ਹੋਂਦ ਵਿਚ ਲਿਆਈ ਗਈ ਹੈ ਅਤੇ ਇਕ ਸਿਵਲੀਅਨ ਕਮਿਸ਼ਨਰ ਦੁਆਰਾ ਇਸ ਦੀ ਪ੍ਰਤੀਨਿਧਤਾ ਕੀਤੀ ਜਾਵੀ ਹੈ।

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਪਾਸ ਕੀਤਾ ਗਿਆ ਹੈ ਤੁਸੀਂ ਕਰ ਸਕਦੇ ਹੋ ਜਿਵੇਂ—

ਉਨਟਾਰੀਓ ਪ੍ਰਾਂਤ ਦੀ ਵਿਧਾਨ ਸਭਾ ਦੁਆਰਾ ਜੋ ਨਵਾਂ ਕਾਨੂੰਨ ਬਣਾਇਆ ਗਿਆ ਹੈ ਉਸ ਅਨੁਸਾਰ ਤੁਸੀਂ ਸਿੱਧੇ ਪਬਲਿਕ ਕੰਪਲੇਟ ਕਮਿਸ਼ਨਰ ਦੇ ਦਫਤਰ ਵਿਚ ਆਪਣੀ ਡਿਕਾਰਿਤ ਦਰਜ ਕਰ ਸਕਦੇ ਹੋ।

ਜੇ ਤੁਹਾਡੀ ਡਿਕਾਰਿਤ 30 ਦਿਨਾਂ ਦੇ ਅੰਦਰ ਅੰਦਰ ਇਹ ਨਹੀਂ ਕੀਤੀ ਗਈ ਤਾਂ ਤੁਸੀਂ ਵਿਚਲੇ ਸਮੇਂ ਦੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਭੇਜ ਸਕਦੇ ਹੋ।

ਛਾਟਵੀਨ ਦੇ ਫੈਸਲੇ ਦੀ ਆਖਰੀ ਲਿਖਤੀ ਰਿਪੋਰਟ ਹਾਸਿਲ ਕਰੋ।

ਕਮਿਸ਼ਨਰ ਨੂੰ ਅਧਿਕਾਰ ਹੈ ਕਿ ਉਹ ਪੁਲੀਸ ਆਜ਼ਾਦੀ ਨਾਲ ਖੁਦ ਰੁਹਾਏ ਕੇਸ ਦੀ ਖੋਜ ਪੜਤਾਲ ਕਰੇ। ਜੇ ਕਮਿਸ਼ਨਰ ਇਸ ਫੈਸਲੇ ਤੋਂ ਪੁਸ਼ਟ ਹੈ ਕਿ ਮਾਮਲਾ ਟੈਕਸ ਦੇ ਵਿਚਾਰ ਅਧੀਨ ਨਹੀਂ ਜਾਣਾ ਚਾਹੁੰਦਾ ਹੈ, ਤਾਂ ਉਹ ਅਜਿਹਾ ਵੀ ਕਰ ਸਕਦਾ ਹੈ ਕਿ ਮਾਮਲੇ ਦੀ ਸੁਣਵਾਈ ਸਿਵਲੀਅਨ ਰਿਜ਼ੋਲਵਿਓਨ ਸਾਫਟ ਕਰੇ।

ਪਹਿਰੇਦਾਰ

ਮਿਸਟਰ ਸਿਡਨੀ ਟਿੰਡਨ, ਜੋ ਕਿ ਕੈਨੇਡੀਅਨ ਸਿਵਲ ਲਿ-ਬਰਟੀਜ਼ ਅਸੋਸੀਏਸ਼ਨ ਦਾ ਸਾਬਕਾ ਜਨਰਲ ਕੋਸਟਰ ਅਤੇ ਕੈਨੇਡੀਅਨ ਲਾਇਬਰਟੀਜ਼ ਅਸੋਸੀਏਸ਼ਨ ਦਾ ਮੈਂਬਰ ਪ੍ਰਧਾਨ ਹੈ। ਜੋ ਕਿ ਸਮਾਜਿਕ ਚੇਰਨਾ ਦਾ ਭਾਗ ਅਤੇ ਚੰਗਾ ਬਹਿਰੀ ਹੈ। ਉਸਨੂੰ ਆਜ਼ਾਦ ਪਬਲਿਕ ਕੰਪਲੇਟ ਕਮਿਸ਼ਨਰ ਨਿਯੁਕਤ ਕੀਤਾ ਗਿਆ ਹੈ। ਉਸਦੀ ਡਿਊਟੀ ਹੈ ਕਿ ਉਹ ਪੁਲੀਸ ਵਿ-ਰੁਧ ਟੈਕਸ ਦੀਆਂ ਡਿਕਾਰਿਤਾਂ ਦਾ ਨਿਪਟਾਰਾ ਕਰੇ।

"ਇਕ ਆਜ਼ਾਦ ਮਨੁੱਖ ਅਤੇ ਉਸਦੀ ਨਿਯੁਕਤੀ ਪ੍ਰਤੀ ਮੈਂ ਉਸਨੂੰ ਇਜ਼ਤ ਮਾਨ ਦੀ ਨਿਗਾਹ ਨਾਲ ਦੇਖਦਾ ਅਤੇ ਵਿਚਾਰ ਕਰਦਾ ਹਾਂ ਉਹ ਇਕ ਉੱਚ ਕੋਟੀਦਾਰ ਵਕੀਲ ਅਤੇ ਚੰਗਾ ਸ਼ਖ਼ੀਅਤ ਦਾ ਮਾਲਕ ਹੈ—
ਡਾ. ਟਿੰਡਨ ਹਿਲ, ਸਕਸ਼ਲ ਅਡਵਾਈਜ਼ਰ ਟੂ, ਈ. ਮੇਅਰ-ਲਾ ਕਮੇਟੀ ਓਨ ਰੇਸ ਅੰਡ ਕਮਿਊਨਿਟੀ ਰੀਲੇਸ਼ਨਜ਼ ਟਰਾਂਟੋ।

"ਮੈਂ ਉਸ ਵਿਚ ਦ੍ਰਿੜ ਨਿਸ਼ਚਾ ਕਰਦਾ ਹਾਂ ਉਹ ਛੇ ਉੱਚੇ ਸੁਚੇ ਲਿਬਰਟੀ ਦਾ ਮਾਲਕ ਹੈ।" ਰੋਬਰਟ ਨਿਕ ਸਨ, ਲਿਬਰਲ ਐਮ.ਪੀ. ਐਡਵੋਕੇਟ ਓਰੀਜਨਲ ਲੀਡਰ।

"ਕੋਸਟ ਮਹਿਸੂਸ ਕਰਦੀ ਹੈ ਕਿ ਮਿ: ਟਿੰਡਨ ਫਤਾ ਯੋਗ ਤੇ ਸੁਧਾਰਨਾ ਹੋਇਆ ਵਕੀਲ ਹੈ ਅਤੇ ਉਹ ਆਪਣੀਆਂ ਸਿੱਖਿਆਵਾਂ ਪੁਲੀਸ ਵਿਆਨਰਦਾਈ ਨਾਲ ਨਿਬਾਏਗਾ।" ਮਲਟੀਕਲਚਰਲ, ਕੋਸਟ ਇਨ ਕਲੇਰਟ ਟਰਾਂਟੋ।

ਇਹ ਪ੍ਰਣਾਲੀ ਤੁਹਾਡੇ ਭਲੇ ਲਈ ਚਾਨ੍ਹੇ ਕੀਤੀ ਗਈ ਹੈ। ਤੁਸੀਂ ਇਸ ਨਾਲ ਵਿਆਕਤੀਕਰਤ ਤੌਰ 'ਤੇ ਸਿਪਕ ਪੈਦਾ ਕਰ ਸਕਦੇ ਹੋ। ਇਸਨੂੰ ਨੇਪਰੇ ਚਾੜਨ ਲਈ ਸਾਡੀ ਮਦਦ ਕਰੋ ਤੁਸੀਂ ਹੀ ਟੈਕਸ ਦਾ ਰੱਤ ਹੋ। ਪੁਛ ਗਿਛ ਲਈ ਫੋਨ ਕਰੋ 962-1141



Roy McKinnon



R Roy McKinnon
Solicitor General



Paul Godfrey
Metropolitan Toronto
Chairman

APPENDIX V (e)

Did you know... the Office of the Public Complaints Commissioner handles complaints about the Metropolitan Toronto Police?

If you have a complaint about a Police officer on the Metropolitan Toronto Police Force, you can now register that complaint directly with an independent, civilian agency. That agency is the Office of the Public Complaints Commissioner.

The Commission was designed to ensure that disputes between the citizens of Metropolitan Toronto and their police force receive prompt and thorough investigation. The agency is not connected in any way with the police force, and you can be confident your complaint will be dealt with in a fair and impartial manner.

If you're not satisfied with the resolution of your dispute, and the Commissioner feels it's in the public interest, he can order a public hearing of your complaint before the civilian Police Complaints Board. Members of the Board include respected judges, lawyers, religious and labour leaders, teachers and businessmen—people with a variety of cultural and racial backgrounds.

To arrange for a meeting with an investigator, or to find out more about the Office of the Public Complaints Commissioner, call 963-1141, or visit our office at 157 Bloor Street West (corner of Avenue Road and Bloor).

Help us make the system work for you.



Sidney Linden, Commissioner

 **Ontario**
Roy McMurtry, Attorney General
William Davis, Premier

Sapevi che... l'Ufficio del Public Complaints Commissioner tratta reclami a proposito della Metropolitan Toronto Police?

Se hai un motivo di reclamo su un ufficiale di Polizia in forza a Metro Toronto Police Force, ora puoi denunciare direttamente il problema presso una agenzia civile ed indipendente. Quell'agenzia e' l'Ufficio del Public Complaints Commissioner.

La Commissione e' stata istituita per assicurare che le dispute tra i cittadini di Metropolitan Toronto e la loro forza di polizia ricevano una equa e completa indagine. L'agenzia non e' in alcun modo collegata con la polizia, e tu puoi essere certo che la tua lamentela sara' trattata in modo corretto ed imparziale.

Se non sei soddisfatto con la conclusione della tua disputa, ed il Commissioner ritiene sia nell'interesse pubblico, egli può indire un'udienza pubblica del tuo reclamo prima del Police Complaints Board civile. I membri del Board comprendono giudici stimati, avvocati, religiosi e leaders sindacali, insegnanti e uomini d'affari, con diversi backgrounds culturali e razziali.

Per contattare un investigatore, o per saperne di più a proposito dell'Ufficio del Public Complaints Commissioner, telefona al 963-1141 o visita il nostro ufficio al 157 Bloor Street West (angolo di Avenue Road e Bloor).



Sidney Linden, Commissioner

Aiutaci a far funzionare il sistema per te.



Ontario

Roy McMurtry, Attorney General
William Davis, Premier

Bathurst Heights Secondary School



APPENDIX V(g)

640 Lawrence Avenue West,
Toronto, Ontario M6A 1B1
789-0551

February 16, 1984

Alice Murray,
Manager, Office and Public Relations,
157 Bloor Street West,
Toronto, Ontario M5S 1P7

Dear Ms. Murray,

We wish to take this opportunity to express the appreciation of Mr. Golden, our students and ourselves to you and your very able department for the excellent presentation given on February 14th and 15th.

Our students are now armed with knowledge of the procedure to be used should a problem occur. Of even greater importance, is the reassurance gleaned from the knowledge that there is a department in existence that will give satisfaction for injustices suffered at the hands of the police.

We do hope that we will have a further opportunity to meet in the near future.

Thank you.

Jan 21/84
Esther Halpern

Mr. J. McKay
Mrs. E. Halpern
Business Department



YORK COMMUNITY SERVICES

1651 KEELE STREET, TORONTO M6M 3W2 - 653-5400

APPENDIX V(h)

EXECUTIVE DIRECTOR, JOAN MILLING

PRESIDENT, BARBARA JAFELICE

December 6, 1983

Ms. Judith Keene
Executive Assistant
The Office of the
Public Complaints Commissioner
157 Bloor Street West
Toronto, Ontario
M5S 1P7

Dear Judith:

I am writing to thank you and Steve Ginsberg for the excellent presentation (November 23, 1983) to our staff. We have referred clients to the Public Complaints Commission and so found it very helpful to have the role of the Commissioner's office and the process clarified. I'm sure this will help us in terms of determining future referrals.

I hope this most worthwhile venture does go beyond its "pilot" phase and wish you luck in your outreach efforts.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Colin Hughes'.

Colin Hughes
Team Coordinator

CH:ac

CA 2 ØN
AJ 715
- A56



**THIRD
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD**

1984



**THIRD
ANNUAL REPORT
OF THE
OFFICE OF THE PUBLIC COMPLAINTS COMMISSIONER
AND THE
POLICE COMPLAINTS BOARD**

December 21, 1983, to December 20, 1984



June, 1985

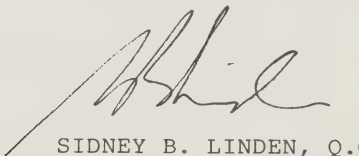
Attorney General for Ontario
Ministry of the Attorney General
18 King Street East
Toronto, Ontario

Dear Mr. Attorney:

Pursuant to Section 3(3) and Section 4(10) of the Metropolitan Police Force Complaints Project Act, 1981, I am pleased to enclose herein the Third Annual Report of the Office of the Public Complaints Commissioner and the Police Complaints Board.

Next year's Annual Report will be made pursuant to the Metropolitan Toronto Police Force Complaints Act, 1984, a copy of which is appended to this Report.

Yours very truly,



SIDNEY B. LINDEN, Q.C.
Public Complaints Commissioner

SBL/mm

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PART I

New Legislation - Establishment of the Office of the Public Complaints Commissioner as a Permanent Agency

**PART I - NEW LEGISLATION - ESTABLISHMENT OF THE OFFICE OF THE
PUBLIC COMPLAINTS COMMISSIONER AS A PERMANENT AGENCY**

From December 21, 1981 to December 20, 1984, the Office of the Public Complaints Commissioner operated as a pilot project pursuant to the Metropolitan Police Force Complaints Project Act, 1981. On June 22, 1984, the Attorney General of Ontario made the following remarks upon tabling the second annual report of the Public Complaints Commissioner.

"...In my view, it is clear that this important project has been an outstanding success. It has brought about a great many improvements in the handling of public complaints of police misconduct.

Members who were present in this House throughout the 1970s will recall the almost constant controversy which surrounded this issue. Royal Commissions and special investigations by such individuals as Arthur Maloney, Mr. Justice Morand, Walter Pitman and Cardinal Carter among others, highlighted the controversial nature of the subject.

In contrast, the period of time since 1981 has been marked by an unprecedented level of public acceptance of the complaints process. Although improvements remain to be made, the dramatic change since 1981 is a powerful testament to the success of the project.

The success of the project has led to it being studied by a number of jurisdictions throughout the world, including the United States, Europe, Hong Kong, Bermuda, Jamaica, the Netherlands, Nigeria and Australia.

Lord Scarman, in his report on the Brixton disorders, stated, "The Toronto proposal appears to me to merit serious consideration as a possible model for reform of our procedure," referring, of course, to Britain.

Legislation modelled in part on the project has been implemented in jurisdictions as close as Manitoba and as far away as Western Australia."

During 1984, the Public Complaints Commissioner consulted with a number of groups in the community in regard to the operation of the complaints system. As well, there were consultations with the Chief of Police, the President of the Metropolitan Toronto Police Association, the Municipality of Metropolitan Toronto, the Solicitor General and the Attorney General. During that process of consultation, new legislation was drafted, for the Office of the Public Complaints Commissioner.

On November 13, 1984 Bill 140, An Act to Revise the Metropolitan Police Complaints Project Act, 1981 was tabled in the legislature. The Bill received Royal Assent on December 14, 1984 and became law as of December 21, 1984. The Act -- the short title is the Metropolitan Toronto Police Force Complaints Act, 1984 -- established the Office of the Public Complaints Commissioner as a permanent agency.

For the most part, complaints by the public against members of the Metropolitan Toronto Police Force will proceed under the new Act as they did in the pilot project phase. However, there are some differences. This Part will outline the process, including the changes brought about by the new legislation.

A. FILING A COMPLAINT

A complaint against a Metropolitan Toronto police officer may be filed at any police station, at the Public Complaints Investigation Bureau of the police force (hereafter referred to as the Bureau) or at the Office of

the Public Complaints Commissioner (hereafter referred to as the P.C.C.).

Statistics based on closed cases during the three year pilot project show that there has been a significant increase in the percentage of complainants who file their complaint at the P.C.C. - from 20% in the first year to 31% in the third year. This increase may be attributed to greater public awareness of the P.C.C., its convenient location at Bloor Street and Avenue Road and possibly to the fact that the office is staffed by civilians. Extended office hours can be arranged as needed, and for those who have difficulty with the English language, translation services are available. These factors may also contribute to the increase.

A 24 hour answering service for the P.C.C. office is in use, and the Director of Investigations is notified of any urgent calls that come in on evenings and weekends. P.C.C. investigators regularly travel to any complainants or police officers who find it difficult to come to the office.

There are four changes resulting from the new legislation that may affect the procedure used when a complaint is filed. The first is a provision for inquiries as well as complaints. The second is a provision to cover situations in which a person complains who is not directly affected by a particular incident. The third is a provision for dealing with complaints that are frivolous, vexatious, or outside the jurisdiction of the Act. The fourth imposes an obligation to conduct preliminary investigation on the officer in charge of any police station at which a complaint is filed.

1. Inquiries

The inquiry system resulted from the fact that, on occasion, a question or concern is raised by a member of the public which, even if proved, would not amount to misconduct. That is, the allegation even if proved, would not amount to an offence as defined by the Code of Offences set out in the regulations under the Police Act.

An example of a matter that might be treated as an inquiry is a question as to whether a police officer who stops a driver for a traffic infraction has the right to ask the driver to produce a licence and ownership papers. As long as there is no question of lack of courtesy, this matter might be dealt with simply by reference to the Highway Traffic Act.

Complaints that are filed may be treated as inquiries only with the consent of the Public Complaints Commissioner. The officer in charge of the Bureau must still respond in writing to the person who made the inquiry and a copy of the response must be sent to the Commissioner.

During the course of investigation into an inquiry, the officer in charge of the Bureau may discover that part of the subject matter may in fact raise questions of misconduct. In this situation, it is appropriate for the officer in charge of the Bureau to reclassify any allegation within the inquiry as a complaint, notifying the complainant, the subject officer and the Commissioner immediately.

2. Complaints by Persons not Directly Affected

Another change brought about by the new legislation arises when the person filing a complaint is not directly affected by the incident. An example of a person considered not directly affected is a person who reads about an incident in a newspaper, or is told about it after it occurs. On the other hand, a person who observes an incident is considered to be a person directly affected.

In the previous legislation, a person who had filed a complaint upon reading about an incident in a newspaper was entitled to the same investigative reports as a person directly affected. The investigative reports often contain information that is personal and there was concern that this type of information was being released to third parties who had no relationship with the incident or the persons involved.

In order to balance the public interest in receiving and investigating third party complaints with the privacy rights of witnesses and others involved in the incident, the following system was introduced by the new Act:

If a person not directly affected files a complaint, the Commissioner is required to look into the matter and ascertain who was directly affected by the incident. The Commissioner must then notify the person directly affected that a complaint has been made and tell that person that they are entitled to file a complaint. If directly affected persons cannot be found or do not choose to file a complaint, the Chief of Police is informed of the issue that has been raised in the complaint. The Chief may pursue it and take appropriate disciplinary action. The Chief of Police must notify the Commissioner of any action

taken, and the Commissioner in turn must notify the third party complainant.

3. Frivolous, Vexatious or Non-Jurisdictional Complaints

A provision in the new Act allows the Chief of Police, subject to review by the P.C.C., to decide that a complaint or a part of the complaint should not be dealt with under the Act. If the Chief of Police believes that the complaint is frivolous, vexatious or made in bad faith, that the complaint is not within the jurisdiction of the Act, or that the complaint is one that could or should be more appropriately dealt with under other legislation, he is obliged to notify the Commissioner, the complainant and the subject officer. This decision does not prevent the Chief from taking any disciplinary action that he might otherwise take under the Police Act and Regulations.

When the Chief of Police makes a decision not to deal with the complaint, the complainant may request a review of this decision by the Public Complaints Commissioner within 30 days of receiving notification from the Chief of Police. This time limit may be extended by the Commissioner where there are reasonable grounds for granting an extension.

When this decision by the Chief of Police is referred to the Commissioner for review, any necessary investigation is done by P.C.C. investigators and the Commissioner must make a decision as to whether to write a report or refer the matter to a public hearing.

4. Immediate Initial Investigation When Complaint is Filed

When a complaint is filed, it is important that any available evidence be collected and preserved immediately, and that statements be recorded before memory of the incident fades. The Office of the Public Complaints Commissioner is well equipped to handle initial investigative procedures such as the taking of a statement, the preservation of evidence, and the photographing of injuries. The Public Complaints Investigation Bureau of the Police Force also has facilities to take statements and photographs and preserve evidence.

The change in the new Act is directed towards situations in which people file complaints at a local police station. The new Act states that when a complaint is recorded at a police station, the officer in charge of the station must take all reasonable steps to ensure that evidence is gathered that might be lost if not secured immediately, and undertake other preliminary investigation if appropriate. A report concerning the preliminary investigation must be forwarded to the Bureau.

B. INVESTIGATION

The investigation of a complaint has not been changed by the new legislation. In general, the initial investigation is conducted by the Public Complaints Investigation Bureau. The Bureau is a separate unit of the police force that deals exclusively with public complaints. Bureau investigators are all very experienced and have the rank of Sergeant or Staff Sergeant.

Bureau investigations are monitored by the Commissioner, who along with the complainant and subject officer, receives written reports every 30 days until the investigation is completed. These reports outline each step that is taken in the investigation and summarize all of the information that is obtained.

Investigation by the Bureau must be done according to rules set out in a regulation. The regulation requires that:

"...An investigation ...shall be pursued quickly and diligently and the investigator shall endeavour to obtain all information that may have a bearing on the complaint.

...All information and evidence obtained in the investigation shall be recorded and preserved.

...The investigator shall endeavour to interview the person making the complaint and the police officer concerned and obtain written statements from them.

...The investigator shall endeavour to interview the witnesses named by the person making the complaint and the police officer concerned and witnesses located as a result of the investigation and to obtain written statements from such witnesses.

...The investigator shall endeavour to obtain photographs of all personal injuries or damage to property alleged and any other information and evidence that is relevant to the investigation and could only be preserved by way of photographs.

...Where appropriate, the investigator shall attend at the scene of the alleged misconduct and obtain any relevant evidence.

...The investigator shall endeavour to obtain all hospital records and medical reports related to the complaint.

...The investigator shall make notes during or as soon as possible after completion of each investigative step and the notes shall be preserved.

...Any information, notes, or evidence, except physical evidence, that is required to be preserved shall be preserved for a period of two years after the complaint is finally disposed of."

The P.C.C.'s civilian investigators are able to monitor the progress of the Bureau's investigation through analyzing the complaint form, and the interim and final reports. If it appears that there has been an oversight, further investigation can be requested, or the P.C.C. can also do its own investigation.

There is provision in the new Act, as there was in the previous legislation, for P.C.C. investigators to investigate a complaint from the outset in certain circumstances. Investigation may be undertaken upon the request of the Chief of Police or where the Commissioner has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of the Bureau's investigation. Alternatively, the Commissioner can undertake investigation 30 days after the complaint has been filed, at his discretion.

The Commissioner has wide investigatory powers. After giving notice to the Chief of Police, the Commissioner's investigators may enter any police station and may remove books, papers and things related to the investigation for analysis. If necessary, the Commissioner may obtain a search warrant to investigate any other building, dwelling, receptacle or place. The Commissioner also has the powers of a commission under Part II of the Public Inquiries Act, which allows him to

subpoena persons to answer questions under oath.

C. INFORMAL RESOLUTION OF COMPLAINTS

Often a complaint can be resolved to everyone's satisfaction through an informal settlement. This can happen, for example, where the complaint arose out of a misunderstanding, by the complainant or the officer, that can be explained, or where a police officer is willing to admit to minor misconduct such as discourtesy and to apologize to the complainant. From December 21, 1983 to December 20, 1984 22.3% of complaints were resolved informally by the Bureau.

The informal resolution is an appropriate way to resolve a complaint, as long as the complaint does not involve serious misconduct, and as long as the complainant has been adequately informed of his or her right to have the matter investigated further and formally resolved, and is truly content not to do so.

The officer in charge of the Bureau has a duty to consider whether a complaint can be resolved informally and may attempt to do so, if both the complainant and the subject officer agree. When a complaint is resolved informally, a written record of the resolution must be drafted and signed by both complainant and subject officer. A copy of the Record of Informal Resolution is forwarded to the Commissioner, the complainant and the subject officer.

The new legislation allows the Commissioner to reopen an informal resolution if he decides that the resolution was obtained as a result of a misunderstanding, a threat or other improper pressure. In this event the complaint investigation is completed and sent to the Chief of Police

or his designate for a decision.

D. WITHDRAWAL OF COMPLAINTS

Between December 21, 1983 and December 20, 1984 12.4% of complaints were withdrawn by the complainant. The new legislation allows the complainant to withdraw a complaint at any time by giving notice on a special form to the officer in charge of the Bureau, who must forward a copy of the notice to the Commissioner and the subject officer. The fact that a complaint is withdrawn does not prevent the Chief of Police from continuing the investigation and taking disciplinary action, if appropriate.

If the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge the Bureau that the complaint is to be continued under the Act.

E. DECISION OF THE CHIEF OF POLICE

At the end of the investigation, a Deputy Chief of Police, who is authorized by the Chief of Police, makes a final decision as to what, if any, action will be taken by the police force in response to the complaint. Action by the police force can include summary discipline, Police Act charges, criminal charges or a hearing by a civilian disciplinary tribunal (formerly called the Police Complaints Board; now called a Board of Inquiry). The Deputy Chief must state his or her decision in writing, and give reasons for it. A copy of this decision is sent to the complainant, the subject officer and the P.C.C.

F. REVIEW BY THE P.C.C.

If the complainant is not satisfied with the decision of the Deputy Chief of Police, he or she may request a review by the P.C.C. The complainant is informed of this right in the letter from the Deputy Chief, and in the explanatory material given to every complainant when the complaint is filed. The new legislation allows a complainant 30 days to request a review. This time limit can be extended by the P.C.C. if there are reasonable grounds for granting an extension.

As the P.C.C. becomes better known in the community, requests for review are increasing. In 1982, (December 21, 1981 to December 20, 1982) there were 45 requests. In 1983, this number increased to 75. In 1984, there were 98 requests for review. While a request for review indicates dissatisfaction with the decision of the Chief of Police, this increase can also be interpreted positively as indicating an increased awareness of the new system and a willingness to use it.

A review involves an analysis of the initial investigation, with further investigation, where necessary. In an appropriate case the P.C.C. may attempt to settle a complaint informally. In cases where settlement is inappropriate, the Public Complaints Commissioner must decide whether it is in the public interest to hold a civilian Board of Inquiry hearing into the matter. If such is not the case, a review report is written.

Situations in which review reports are written cannot be described exhaustively, due to many considerations which arise in determining "the public interest". Each case is decided on its own facts. However, some examples

can be provided. Review reports have been written in the following situations:

- (a) Where the officer's conduct was based on an understandable misinterpretation of the law;
- (b) Where the officer believed that he or she was acting according to policy or procedure, but in fact did not do so because of a misunderstanding of police policy or procedure;
- (c) Where the officer was acting reasonably and legally;
- (d) Where there is insufficient evidence to go to a Board hearing.

Examples of the situations listed above, based on actual cases, were given in the Second Annual Report of the Office of the Public Complaints Commissioner.

Review reports contain an explanation of the nature of the allegation, the witnesses contacted, the evidence considered and any other investigative steps that were taken. In all cases where a witness' version of events contradicts that of the complainant, the complainant is informed about the contradiction and asked to comment. If the Commissioner decides that no action is warranted, the decision is explained.

The following is an example of a review report released in this reporting year:

COMPLAINANT: Mr. B

On October 30, 1983, Mr. B filed a complaint against P.C. Z of ____ Division. Mr. B's complaint arose out of an incident which took place on October 30, 1983, during which he was issued a ticket for standing in a prohibited area. The complaint was investigated by Staff

Sergeant C of the Public Complaints Investigation Bureau. On February 29, 1984, Deputy Chief Noble, in his capacity as Complaint Review Officer, wrote to the complainant and advised him that he had counselled the officer with respect to his behaviour in issuing the ticket, as he was not satisfied that the officer had issued the ticket in good faith.

Mr. B attended at my office on March 15, 1984, to request a review of this decision. He was not satisfied with the result obtained because he had wanted a written apology from P.C. Z. I notified the Chief of Police of the complainant's request for review and asked for a photocopy of the Bureau's investigative file. The Bureau file was duly forwarded to my office on March 23, 1984 and I have reviewed it.

Mr. B's complaint, as set out on the complaint form, is as follows:

I was stopped on Lansdowne Avenue near Queen Street West warming up my car. Two policemen stopped across the road from me and the driver said, "Are you warming up your car?" I said, "If I don't warm it up it will cost me money." The policeman replied, "If you don't move it, it's going to cost you more." I moved my car east on Queen towards Roncesvalles and when I was close to Triller I saw his flashing light on. Then he stopped and asked for my ID which consists of driver's licence, ownership, and insurance. I gave it to him and he walked back to his car. They were in the car laughing and came back 15 1/2 minutes later, and handed them back to me and said "Thank you." I said, "Number one, may I ask one question?" The other officer said, (that is Officer Z) "He's number one, I'm number two." He said, "What is it, a joke." I said, "No, it is not a joke, I would like to know why I have been detained for so long." He said, (Officer Z), "What are you trying to be, a smart ass?" I said, "No, I would just like to get some answers." He then said, "You can go to the station if you don't like it here." That was it and I came here.

The Bureau investigation into this complaint was completed. The Bureau investigator interviewed Mr. B and attended with the complainant to the

place where Mr. B's vehicle allegedly was stopped, opposite 14 Lansdowne Avenue. The investigator obtained written statements from P.C. Z and his partner, and interviewed these officers as well. He also interviewed and obtained a written statement from the Staff Sergeant at ____ Division who received the complaint from Mr. B. He arranged to have the Identification Bureau take photographs of the location and he also obtained the tapes of radio communications. Finally, he obtained copies of the training precis used by the Police Department in the education of officers; the precis referred to were those dealing with parking tickets and courtesy toward members of the public. He also drew maps of the scene and photocopied an extract from Perly's Map Guide, showing the streets where the complainant was initially parked and where he was later stopped by the police.

My review of the contents of the Bureau investigative file indicates that no further investigation is required with respect to this complaint. During the course of the Bureau investigation, Mr. B was supplied with regular reports which apprised him of evidence both for and against his complaint.

During an interview with the Bureau investigator, Mr. B added that he did move his car, travelled south on Lansdowne Avenue and then west on Queen Street, until he was stopped on Queen Street West and Triller Avenue, where he was given the ticket. According to the complainant, he was not parked in a prohibited area when the police officer told him to move.

Mr. B's first allegation is that P.C. Z told him to move his car or it would cost him money. He stated that he was not illegally parked.

P.C. Z has admitted that he did make this statement to Mr. B. According to P.C. Z's written statement to the Bureau investigator, he and his partner observed the complainant's vehicle illegally parked at the west curb of Lansdowne Avenue in a bus zone. P.C. Z stated that he asked Mr. B if he was going to move his car. Mr. B replied that he was warming up the car to save money, at which P.C. Z told him that if he did not move the car, it would cost him more. P.C. Z's partner confirmed that P.C. Z made the above comment and that the complainant

was illegally stopped.

In dealing with this allegation, Deputy Chief Noble stated that there was no independent evidence to prove or disprove the allegation. As far as the comment is concerned, there is P.C. Z's admission, supported by his partner's evidence, that the comment about money was made. As for the complainant's insistence that he was not stopped in a prohibited area in that he was stopped in an area during a time when parking was permitted, there is no independent evidence to show whether this was so. The officers have indicated that he was stopped in a prohibited area (bus zone), however, the ticket does not mention the exact location.

In this case, it was important to know the exact location, because that would determine whether the offence had been committed. Mr. B indicated to the Bureau investigator the place where his car had been stopped. There is a sign which states that no parking is permitted in that area from 4:00 p.m. until 6:00 p.m. The complainant was stopped there at 10:30 p.m., which would not be an offence. According to the police officers, he was stopped in a T.T.C. bus zone, where there is a sign prohibiting standing at any time.

Mr. B's second allegation is that he was given the ticket only after he questioned the reason why he had been detained for fifteen minutes.

P.C. Z stated that Mr. B did not move his car immediately upon being told to do so, but appeared to be talking to a woman standing outside of the car, leaning in the passenger's window. After about thirty seconds, the driver slowly moved his car and turned onto Queen Street. At this time, P.C. Z's partner pressed the talk button on the radio, to get a check on the licence number. They did not get response and so pulled the vehicle over. They stopped the car at Queen Street and Triller Avenue, and P.C. Z asked the driver for his licence and insurance, and returned to the cruiser to get a radio check. The dispatcher made a mistake and they had to wait for the correct information. After they returned the identification to Mr. B and began to walk back to their car, Mr. B yelled "I want an explanation, number one". P.C. Z asked what he meant by "number one" and the driver became very angry. He yelled that he

had been stopped for an hour and a half, and wanted to know why. P.C. Z told him that he was going to get a parking ticket and went back to the car to get the ticket, which he then gave to Mr. B.

P.C. Z's partner confirmed the above account. The S/Sgt. who received the complaint from Mr. B stated that the complainant was annoyed and took exception to the fact that he had received the ticket several blocks away from the location shown on the tag. He was of the opinion that he was given the ticket because he questioned the reason for the delay.

In dealing with this allegation, Deputy Chief Noble stated that the Bureau investigator had obtained the tapes of the radio check requested by P.C. Z. The tapes confirmed that the location at which P.C. Z issued the ticket to the complainant was at Queen Street and Triller Avenue, and that it took nine minutes to complete the check. The remainder of the time was possibly taken up with issuing the parking ticket.

Deputy Chief Noble found that he was not satisfied that P.C. Z had issued the ticket in good faith, since it was five blocks away from and fifteen minutes after the alleged infraction.

The complainant's third allegation is that P.C. Z referred to him as a "smart ass". P.C. Z denied that he made this remark to Mr. B, and is supported by his partner in this regard.

In dealing with this allegation, Deputy Chief Noble stated that there was no independent evidence to confirm or refute the allegation. I agree with this disposition and find myself likewise in no position to reach a conclusion with respect to this particular allegation.

The fourth allegation is that Mr. B was issued a parking ticket which incorrectly identified the location of the offence. P.C. Z has explained the reason why the ticket did not show the exact location of the infraction.

He stated that the complainant's vehicle was standing in a "No Standing" zone on Landsowne Avenue and not on Queen Street West, as indicated on the ticket.

In dealing with this allegation, Deputy Chief Noble wrote that the officer did not know the street number on Lansdowne Avenue where the complainant's car had been standing, and so he entered the location as "near 1468 Queen Street West".

Deputy Chief Noble concluded that he was not satisfied that the officer had issued the parking ticket in good faith and he counselled P.C. Z with respect to his conduct. Mr. B indicated to my office that he was not satisfied with this disposition, as he believed that the officer should have apologized for his behaviour. I would, however, point out that it is a serious matter for an officer to be counselled about his behaviour and that the fact that he was counselled appears on his personnel record. The personnel record is always studied when an officer is being considered for a promotion.

In light of the officer having been disciplined in the manner described above, it is my opinion that it would not be in the public interest to order a Police Complaints Board hearing in this matter.

On occasion, the Commissioner recommends a change in police policy or procedures in a review report. The recommendations made in review reports can have a preventative function; for example, when a complainant's difficulty is with police policy rather than police misconduct, or when the officer displays only minor misconduct or simply questionable conduct. When the problem might be prevented in future by a change in or clarification of policy, this can be recommended in a review report. If there is very minor misconduct or simply questionable conduct, a report may recommend suitable educative measures. Training or retraining in the law relevant to a particular area of police work, in interpersonal communication, in crowd control or in dealing with the stress of the job, may prevent the problem from arising in future.

One example of a review report in which a recommendation was made concerned a man who sent his two sons to an auto repair shop with a dune buggy, having removed the seats to prevent paint damage. His sons were stopped by an officer, who checked the vehicle and found that the windshield and horn were inoperable. An officer removed the licence plates and confiscated the ownership papers from the vehicle, and the complainant's sons were given an hour in which to remove the vehicle or it would be ticketed.

On the initial investigation of the complaint, it was discovered that a police procedure dealing with the seizure of licence plates and pursuant to the Highway Traffic Act authorized officers to include the ownership permits with the licence plates, where the permit is volunteered. The investigating police officer apologized for the seizure of the ownership permit and pointed to the written policy as the source of the mistaken belief by the officer that he had authority to seize the ownership permit.

The complainant was not satisfied, and requested a review by the P.C.C. On review, an examination of the Highway Traffic Act disclosed that there was no authority in the law for the seizure of a vehicle ownership permit, whether voluntary or otherwise. Accordingly, the Commissioner recommended that a written apology be made to the complainant. The Commissioner also formally recommended that Metropolitan Toronto Police officers should be clearly instructed that vehicle ownership permits are not to be seized and that the Highway Traffic Act does not provide for any exception to this rule; even when the permit is volunteered.

The Metropolitan Toronto Police Force accepted the recommendation. The Deputy Chief, in a letter to the complainant, made the following statements:

"On November 30, 1982, a Routine Order was published advising all our personnel that the owner's permit is not to be taken by police officers in these circumstances. I am having the Routine Order published again.

I have also directed a memo to Staff Superintendent John Ward, of our Operational Planning Unit, to revise our Administrative Procedure to include that the Owner's Permit remains with the registered owner and is not subject to seizure.

On behalf of the Metropolitan Toronto Police Force, I apologize for any inconvenience caused to you."

G. BOARD HEARINGS

After reviewing a case on the request of a complainant, the Commissioner may call a public hearing before a Board of Inquiry if he considers it to be in the public interest to do so. These discipline hearings are held before civilians, who sit as tribunals of one or three persons, depending on the seriousness of the case.

Under the former legislation, the entire body of civilians was called the Police Complaints Board. Under the new legislation that body is simply referred to as a panel, and the one or three person tribunals that hear individual cases are called Boards of Inquiry.

The panel is appointed by Cabinet, and its proportional representation remains the same under the new legislation. One-third of the members of the panel are to be lawyers jointly recommended by the Attorney General and

the Solicitor General. One-third are to be recommended by the council of the Municipality of Metropolitan Toronto. One-third are to be persons other than police officers, jointly recommended by the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association.

As under previous legislation, Board of Inquiry hearings are open to the public and are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply.

Some changes that have been brought about by the new legislation affect the conduct of hearings before Boards of Inquiry. The first is in regard to the prosecution of cases. In the previous legislation, there was no provision for a prosecuting counsel at Board hearings. Rather, a counsel for the Board was charged with the task of ensuring that all relevant evidence came before the Board, whether or not the evidence tended to support the complaint.

The new legislation requires that when a hearing is called, the Ministry of the Attorney General will provide counsel to, in effect, prosecute the case. As with the previous legislation, it is anticipated that the respondent officer will be defended by counsel, although this is not a requirement. The complainant may also have counsel although, once again, this is not a requirement under the legislation.

The new legislation also provides for minor changes to the penalties that may be imposed by the Board where an officer is found guilty of misconduct. Those penalties are now the same as the disciplinary penalties available

under the Police Act. The Board may dismiss an officer from the force, direct that the officer resign or be dismissed within seven days, reduce the officer in rank, impose a forfeiture of up to 20 days off, impose a forfeiture of up to five days' pay or reprimand the officer.

A report on hearings and decisions completed in 1984 may be found in Part IV.

H. REPORTS AND RECOMMENDATIONS BY THE PUBLIC COMPLAINTS COMMISSIONER

In monitoring and reviewing an average of 820 complaints a year, the Commissioner is in a unique position to offer constructive recommendations directed towards the prevention of problems. The new legislation recognizes this preventative function and provides for two types of formal reports by the Commissioner.

The first is a report arising from a review. After a review, if the Commissioner is of the opinion that a police practice or procedure should be altered, he is required to report this opinion and recommendations to the Metropolitan Board of Commissioners of Police, the Chief of Police and the Metropolitan Toronto Police Association.

The second type of report is not confined to review situations. When, as a result of any matter dealt with under the Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he is required to report this opinion and recommendations to the Metropolitan Board of Commissioners of Police, the Chief of Police and the Metropolitan

Toronto Police Association.

This change in the new Act reflects a procedure undertaken by the Commissioner during the pilot phase of the Office. An example of such a general report with recommendations is included in Part II.

Within 90 days of receiving a report from the Commissioner in either of these situations, the Metropolitan Board of Commissioners of Police is required to forward the report along with its comments and any comments submitted by the Chief of Police or the Metropolitan Toronto Police Association to the Attorney General, the Solicitor General and the Commissioner.

PART II
Other Significant Activities

PART II - OTHER SIGNIFICANT ACTIVITIES

A. HOLD-UP SQUAD REPORT - RESPONSE

In the 1983 Annual Report of the Office of the Public Complaints Commissioner, mention was made of a report into allegations against the Hold-Up Squad of the Metropolitan Toronto Police Force. The 150 page report was released in 1984.

As part of the Hold-Up Squad Report, the Public Complaints Commissioner made 19 recommendations for specific reforms in police practices and procedures that would act both as preventative measures against the occurrence of misconduct by police officers, and as a safeguard against unfounded allegations of misconduct.

In August, 1984, the Metropolitan Police Force issued a written response to the Hold-Up Squad Report. In the 21 page response, the police force signified agreement or partial agreement with all of the 19 Hold-Up Squad recommendations.

One of the most important recommendations in the Hold-Up Squad report was that the Metropolitan Toronto Police should experiment with the use of videotaping in interrogations of suspects at police stations. A 70 page section of the Hold-Up Squad report was devoted to an analysis of legal implications of videotaping and a description of various systems implemented in other jurisdictions.

Upon consideration of this recommendation, the police established a Task Force to plan an experimental two year video project, with a view to commencing the project in January, 1985. The original plan proposed by the Task

Force was to videotape, in somewhat limited circumstances, when a suspect wished to confess. After consultation with the Law Reform Commission of Canada, the scope of the project was broadened somewhat. The new pilot project, which has been implemented in Scarborough, is confined to suspects charged with serious offences such as murder, manslaughter, robbery, assault or sexual offences. Not all of the interrogation process is recorded, but if the prisoner wishes to make a statement, the police ask if he or she wishes to have the statement videotaped. Those who agree to a videotaping will be taken to the video studio.

Videotaping in the studio is conducted by civilian technicians. Included on the tape is a large clock with a second hand to eliminate the possibility of anyone editing or tampering with the tape after a statement is made.

Two copies of the videotape and audio recording are made during questioning and kept until the case is fully dealt with by the courts.

When a statement is to be recorded the investigators, who also will be in view of the video camera, will commence the interview by:

- stating the date, time and location
- identifying the persons present in the studio
- confirming the accused's consent to be videotaped
- repeating to the accused his/her right to counsel and the fact that they have been charged with a specific offence and need not say anything unless they wish to do so
- recounting and confirming, with the accused, all the events which have transpired since their arrest, including any statements that they might have made prior to videotaping.

In addition to the videotaping of statements, 41 Division is experimenting with videotaping the arrival and departure of suspects. Prisoners are also videotaped in the booking room and cell area. During the booking, a Staff Sergeant asks the prisoner if he or she has any complaints about treatment by police.

B. REGENT PARK INITIATIVE

Regent Park is a Toronto neighbourhood of approximately 10,000 people. It is characterized by relatively high-density housing, the major part of which is government subsidized. In fact, Regent Park is the oldest and largest public housing development in Canada. Over two-thirds of the residents receive some form of public assistance and many social service agencies are involved in the area. The community has a large proportion of children, teenagers, and young adults. There is significant unemployment among Regent Park youth.

In the autumn of 1983, the Office of the Public Complaints Commissioner was made aware of difficulties that were being experienced in Regent Park between some parts of the community and some members of the police force serving the area.

Difficulties in police-community relations in Regent Park is not a new issue. In 1976, the Liaison Group on Law Enforcement and Policing (a Committee formed through the Metro Toronto Social Planning Council) proposed a project that might deal with this issue in Regent Park. "Project 51" was an effort to establish dialogue between police and the Regent Park community. The Project represented a goodwill effort on the part of police and community agencies; however, it failed, due partly to lack

of community involvement.

More recently, complaints from Regent Park residents were aired publicly in October, 1982, when approximately 150 people attended a meeting at a local public library. At that meeting, the Regent Park Committee Against Police Harassment, (a group of Regent Park residents and community workers) was formed. The Committee was to address police-community problems and to report to the Regent Park Residents' Association. The Residents' Association has been in existence in one form or another since 1969, for the purpose of dealing with problems in the community and providing a concerted, organized voice and services for residents of Regent Park.

Over the next five months, the Regent Park Committee Against Police Harassment continued to receive complaints of police misconduct from Regent Park residents, and attempted to arrive at some solution for these problems.

In March, 1983, a Regent Park resident died while in police custody. In May, 1983, a coroner's inquest jury concluded that the deceased died as a result of ingesting a lethal combination of drugs. Notwithstanding the jury's decision, this death caused considerable upset in the community and resulted in a number of outside interest groups approaching Regent Park residents and discussing violence as a solution to problems with police.

In an attempt to arrange a community discussion of the death in police custody and of other perceived problems with police, the Regent Park Committee Against Police Harassment distributed a number of posters throughout the community to advertise a meeting on the issue. The posters contained a somewhat startling illustration depicting a black youth being grabbed by a

police officer and bitten by a police dog in front of a burning building. Understandably, officers at the local police division (51 Division, physically located within Regent Park) were outraged at what they considered to be highly inflammatory, prejudicial and inappropriate tactics. Many of these officers tended to confuse the Regent Park Committee Against Police Harassment with outside interest groups who were sending representatives into the community at the time, and were therefore openly stating that members of the Committee were simply a group of "outside agitators" representing no one.

By October, 1983, the two aldermen for the area had arranged several meetings with the Unit Commander at 51 Division. The aldermen attempted to point out that the Regent Park Committee Against Police Harassment, despite a certain naivety of approach as evidenced by the posters that were circulated, was making a bona fide attempt to begin a process of constructively dealing with perceived police-community problems. The aldermen also stressed the possibility that many of the difficulties being experienced between the police and community were a function of inaccurate perceptions held by both parties. These perceptions needed to be addressed and discussed between the police and the community before attitudes could be expected to change.

The police viewed the problem as a matter of individual complaints, which would only warrant action if facts about such complaints could be verified. They were not disposed to discuss other than verifiable facts, nor were they inclined to deal with members of the community, except on an individual basis as complainants about particular incidents. They also reiterated the view that the Regent Park Committee Against Police Harassment was

not representative of the Regent Park community.

At this point, the Regent Park Committee Against Police Harassment publicly expressed the view that it was unproductive to have any discussion with the police. Matters were thus at a stalemate.

In October of 1983, many of the individuals and social service agencies involved in the area were concerned that, because of this stalemate, police-community relations might further deteriorate. Accordingly, after discussing the situation with the local aldermen, the Race Relations Division of the Human Rights Commission, and the Multicultural and Race Relations Department of the Municipality of Metropolitan Toronto, the Public Complaints Commissioner decided to meet with members of the Regent Park community. At a meeting with the Regent Park Committee Against Police Harassment and at a public meeting on October 22nd, with Regent Park residents, the Commissioner outlined the details of the complaint system.

Shortly after the public meeting on October 22nd, the Regent Park Committee Against Police Harassment indicated that it would encourage Regent Park residents who had complaints to file them with the Commissioner. However, the Committee indicated that people who had complaints were not willing to talk to the police, due to their fear that they would be harassed or put under pressure to withdraw the complaint. The Commissioner explained that the police officers who investigate public complaints are members of a special unit (the Public Complaints Investigation Bureau) and not attached to any particular Division. However, this explanation did not alleviate the complainants' initial fears.

Due to the sensitive nature of the community at that time, investigators from the Public Complaints Commissioner's office did not insist on the complainants attending at the P.C.C. office. Instead, they attended at the office of the Regent Park Residents' Association, and took written complaints from people who had been contacted by the Committee Against Police Harassment.

Since P.C.C. investigators are civilians, complainants were willing to discuss the details of their complaints frankly. However, they remained unwilling to speak to any police officer, even those belonging to the Bureau. Accordingly, the Committee Against Police Harassment decided to encourage fearful complainants by offering them the choice of designating a member of the Committee as agent for the complainant, so that the Bureau could contact this agent.

While the approach was not completely satisfactory to complainants, or Bureau investigators, after several meetings involving the Public Complaints Commissioner, senior officers of the police force, and members of the Committee, it met with sufficient approval for an agreement to be reached. During the early part of 1984, sixteen complaints were filed, some directly, and others using the vehicle of a designated agent.

The sixteen formal complaints were investigated and dealt with in accordance with the Metropolitan Police Force Complaints Project Act, 1981.

In investigating the formal complaints, P.C.C. investigators talked to over 200 Regent Park residents and police officers. In the course of these discussions, some general perceptions emerged that appeared to have potentially serious implications for ongoing

police-community relations in the area. The Public Complaints Commissioner decided to address these perceptions and propose some solutions, with a view to improving police-community relations.

Accordingly, a 38 page report was prepared and presented to the Board of Commissioners of Police of Metropolitan Toronto. The report contained a summary of issues affecting the area and a series of recommendations. Chief among these recommendations was a suggestion that police-community consultation be undertaken through the formation of an advisory committee of Regent Park residents, police officers (both management and constables) some representatives of social service agencies active in the community, an alderman, and a member of the Metropolitan Toronto Board of Commissioners of Police.

The following are the recommendations as listed in the Report:

RECOMMENDATION #1

I RECOMMEND THAT AN ADVISORY COMMITTEE BE SET UP IN REGENT PARK TO UNDERTAKE DIALOGUE BETWEEN POLICE AND COMMUNITY. IDEALLY, AT LEAST HALF OF THE MEMBERSHIP OF THE COMMITTEE SHOULD BE REGENT PARK RESIDENTS. THE BALANCE OF THE COMMITTEE SHOULD INCLUDE AT LEAST ONE SENIOR OFFICER FROM THE DIVISION (PREFERABLY THE UNIT COMMANDER), ETHNIC AND COMMUNITY RELATIONS OFFICERS, REGULAR POLICE CONSTABLES, SOME REPRESENTATIVES OF SOCIAL SERVICE AGENCIES ACTIVE IN THE COMMUNITY, AN ALDERMAN FOR THE AREA, AND A MEMBER OF THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE. THE COMMITTEE SHOULD MEET IN REGENT PARK SO

AS TO BE ACCESSIBLE TO RESIDENTS, AND SHOULD RECEIVE ANY NECESSARY ADMINISTRATIVE SUPPORT FROM THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE.

The Commissioner also suggested certain agenda items for the Committee. These are listed and discussed in the public Report.

RECOMMENDATION #2

- (A) THE DISPATCHER IN THE RADIO ROOM SHOULD INFORM THE OFFICER IN CHARGE OF THE STATION WHEN THERE ARE THREE OR MORE CARS RESPONDING TO AN INCIDENT.
- (B) THE OFFICER IN CHARGE OF THE STATION SHOULD ENSURE THAT A SUPERVISORY OFFICER ON THE ROAD ATTENDS THE SCENE WHEN THERE ARE THREE OR MORE CARS RESPONDING TO A CALL.
- (C) THE SUPERVISORY OFFICER SHOULD BE RESPONSIBLE FOR CONTROLLING THE SITUATION AND FOR RECORDING WHAT OCCURS. IF UNNECESSARY CARS ATTEND, THE SUPERVISORY OFFICER SHOULD CLEAR SUCH CARS AWAY FROM THE AREA.
- (D) NO OFFICER SHOULD ATTEND AN INCIDENT WITHOUT INFORMING THE DISPATCHER OF HIS/HER INTENTION TO DO SO. (THIS RECOMMENDATION REFLECTS AN EXISTING POLICE REGULATION, REGULATION 5.8.9.).

RECOMMENDATION #3

I RECOMMEND THAT THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE ENSURE THAT WRITTEN DIRECTION BE GIVEN TO THE METROPOLITAN TORONTO POLICE FORCE AS TO PROCEDURE TO BE FOLLOWED PRIOR TO QUESTIONING A

DETAINED PERSON. I RECOMMEND THAT THE PROCEDURE CONTAIN A SIMPLY-WORDED SPECIFIC WRITTEN EXPLANATION OF THE RIGHT TO COUNSEL, RATHER THAN A DIRECT QUOTATION FROM THE CHARTER OF RIGHTS.

IF A PERSON IS TAKEN TO THE POLICE STATION, I RECOMMEND THAT THE RESPONSIBILITY FOR EXPLAINING THE RIGHT TO CONSULT COUNSEL AND FOR ASSISTING THE DETAINED PERSON TO GET IN TOUCH WITH COUNSEL, REST UPON THE OFFICER IN CHARGE OF THE STATION. IF A PERSON IS DETAINED IN OTHER CIRCUMSTANCES, (SUCH AS IN A POLICE VEHICLE), RESPONSIBILITY SHOULD LIE WITH THE ARRESTING OFFICER.

RECOMMENDATION #4

I RECOMMEND THAT A STUDY BE COMMISSIONED BY THE METROPOLITAN TORONTO BOARD OF COMMISSIONERS OF POLICE ON CHARGES OF CAUSING A DISTURBANCE, ASSAULT POLICE AND OBSTRUCT POLICE. THE STUDY SHOULD ENCOMPASS CHARGES LAID OVER A TWO YEAR PERIOD. THE STUDY SHOULD EXPLORE HOW MANY CHARGES HAVE BEEN LAID, BY WHOM, AND IN WHAT CIRCUMSTANCES AND WITH WHAT RESULTING CONVICTION RATE, WITH A VIEW TO ESTABLISHING WHETHER THERE IS ANY BASIS FOR THE ABOVE-STATED CONCERNS.

The response of the Board of Commissioners of Police was generally favourable, and Recommendation #1 was accepted immediately. The other recommendations are being considered.

The following is quoted from the minutes of the meeting of the Metropolitan Toronto Board of Commissioners of Police at its meeting of March 28, 1985:

"Alderman Campbell expressed her appreciation for the work of Mr. Linden, and said his report was excellent. She also thanked the members of the Regent Park community for their work that went into the report.

Alderman Campbell advised that she had met with Ms. Rosanna Scotti, Director of Multicultural and Race Relations for Metropolitan Toronto, and discussed the possibility of the Metropolitan Corporation providing support at the staff level to the Advisory Committee proposed by Mr. Linden. She suggested that Ms. Scotti be consulted as to whether the Metropolitan Corporation would provide administrative support in this regard.

Alderman Reville advised that he was pleased with the report and said that its direction was absolutely right. He complimented Mr. Linden, Staff Inspector Maher and former Chief Ackroyd for their co-operation with himself and Alderman Campbell in dealing with the concerns of the Regent Park community.

Ruby Wood advised that she was very much in favour of the report and all of its recommendations. She noted that there had been a Regent Park police-community relations committee in the past as part of Project 51, but she said the committee was too large and the community did not get involved. She recommended that the committee proposed by Mr. Linden start off very small and then build up.

On a motion by Mayor Eggleton, the Board adopted the following:

- 1) that an Advisory Committee be established in Regent Park to undertake dialogue between the police and the community;
- 2) that Ms. Jane Pepino, Q.C., be appointed as the representative of the Board on the Advisory Committee;
- 3) that the Chief of Police report on the initial size and structure of the Advisory Committee;
- 4) that the Chief of Police also report on the other recommendations made by Mr. Linden;

- 5) that the Chief of Police consult with the Director of Multicultural and Race Relations on the possibility of the Metropolitan Corporation providing administrative support at the staff level to the Advisory Committee.

Ms. Pepino said that she was delighted to serve on this committee. She said she had become aware of the problems with Project 51 when she was serving on the Human Rights Commission, and she was pleased that this time, the committee would be starting off on the right foot in a positive way, and she wanted to encourage that. It was noted that as Alderman Reville is resigning his seat to run in the provincial election, Alderman Campbell will be the Ward representative on the committee.

The Chief of Police thanked Mr. Linden and the Regent Park community for their work on this report. He said that the establishment of a committee will be a positive step and agreed that it should start off small. He advised that he would respond to the Board's motion and Mr. Linden's report in two weeks time."

C. EDUCATION OF THE PUBLIC AND OF POLICE OFFICERS ABOUT THEIR RIGHTS AND RESPONSIBILITIES UNDER THE COMPLAINTS LEGISLATION

The 1983 Annual Report mentioned the need for public education about the new legislation. An effective complaint system cannot be maintained without outreach and educational efforts for the public. In addition, the system should be clearly explained to police officers, who might otherwise be unaware of their rights and responsibilities under the legislation.

In regard to the general public, the P.C.C.'s efforts and outreach in education began early in the project and have increased in variety and intensity in the second and third year. On three occasions, the P.C.C. has produced an advertisement which was published in over 100 newspapers and in over 30 different languages. Posters and pamphlets describing the system have been distributed

widely through community information centres, legal clinics, courts, police stations, constituency offices of Metropolitan Toronto M.P.'s and M.P.P.'s, and city aldermen, as well as other outlets. The Commissioner and members of the P.C.C. staff have given interviews for television, radio and newspapers. Presentations have also been given at high schools and at law schools.

The Commissioner also maintains an active liaison with agencies involved in the representation of various minority, racial and ethnic communities. The Commissioner sits as a resource person on a number of Mayors' Committees on ethnic and race relations, and is a member of the Metropolitan Toronto Council on Race Relations and Policing.

P.C.C. staff have attended a series of meetings with ethnic associations, legal clinics and service agencies to explain the complaint system to community workers who might be referring complainants. In addition, the P.C.C. has produced an educational tape to the dial-a-law program of the Law Society of Upper Canada. Those requesting information from the program are provided with information from the tape.

In regard to educating members of the police force about the complaint system, the P.C.C. has conducted educational sessions at police stations and police colleges to explain the system, and these efforts are continuing. The Commissioner has also met with the Metropolitan Toronto Board of Commissioners of Police and the Ontario Police Commission to discuss the system.

PART III
Research and Statistics

PART III

RESEARCH AND STATISTICS

A. INTRODUCTION

Research data and statistics on all phases of the complaints procedure were gathered for the third year of operation of the P.C.C. from December 21, 1983 to December 20, 1984. All cases that were closed within that period are included in the present database. It should be noted that these statistics deal only with public complaints filed against police officers in the Metropolitan Toronto Police Force.

A total of 790 cases were opened in 1984, compared to 758 cases opened in 1983. Of the 1,077 cases that were open at some point during 1984,* 643 cases were closed (completed) by December 20, 1984; 394 cases remained open and 40 failed to develop.**

The 790 cases filed in 1984 represent an average of roughly 65.8 cases per month. The actual number of complaints that were filed each month is presented on the next page.

* The 1,077 cases consist of 790 cases opened in 1984 plus 287 cases carried over from previous years, in which the investigations had not been completed that year.

** Cases that failed to develop were cases that included, among others, complainants who arranged meetings with investigators but failed to attend, complainants who failed to contact the Office or who did not respond to follow-up letters, and complaints that proved to be out of the jurisdiction of the P.C.C.

	<u>No.</u>	<u>%</u>
January	73	9.2
February	64	8.1
March	67	8.5
April	77	9.7
May	63	8.0
June	55	7.0
July	69	8.7
August	74	9.4
September	61	7.7
October	67	8.5
November	56	7.1
December	<u>64</u>	<u>8.1</u>
TOTAL	<u>790</u>	<u>100.0</u>

Once a complaint case is completed, the closed file is forwarded to the Research Section and a Complaint Recording Form completed. The Complaint Recording Form is designed to obtain maximum information from each complaint case filed, such as: the date, location and police division of the occurrence; number and type of allegations; precipitating factors and alleged injuries, and extensive details on all stages of the complaint process from the date of filing to the date of final disposition. Information relating to the time involved from one stage of the process to various other stages is also gathered in order to provide an indication of how efficiently the system is operating.

B. RESEARCH FINDINGS GATHERED FROM COMPLAINT
RECORDING FORMS

The statistics collected from the Complaint Recording Form for cases closed between December 21, 1983 and December 20, 1984 will be presented below. This database of closed cases consists of a total of 643 cases: 3.3% of these cases were filed in 1982, 40.6% were filed in 1983, while the remaining 56.1% were filed in 1984.

1. Where Complaints Filed

The majority of the complaints were once again filed at a police station (40.1%); 31.4% were filed with the Public Complaints Commissioner; 19.3% were filed with the Public Complaints Investigation Bureau; 8.4% were filed with the Chief of Police. 0.8% of the complaints were filed with the Ontario Police Commission.

Nearly one-third of all the complaints filed (31.4%) were filed with the P.C.C. This figure represents an increase of 6.6% from last year's figure of 24.8%. Thus, it would appear that word of the office is spreading. These data may be found in Table 1.*

14.9% of the complaints were filed by letter while 85.1% were filed in person.

2. Time and Date of Complaint Incident

A slightly higher number of complaint incidents appeared to occur over the weekend -- from Friday to

* For some areas of particular interest, the frequency distributions for two years of data collection (1983 and 1984) were included in the Tables.

TABLE 1

LOCATION WHERE COMPLAINTS FILED

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
POLICE STATION	324	42.8	258	40.1
PUBLIC COMPLAINTS COMMISSIONER	188	24.8	202	31.4
PUBLIC COMPLAINTS INVESTIGATION BUREAU	185	24.4	124	19.3
CHIEF OF POLICE	44	5.8	54	8.4
ONTARIO POLICE COMMISSION	10	1.3	5	0.8
OTHER	<u>6</u>	<u>0.9</u>	<u>0</u>	<u>0.0</u>
TOTAL CASES	<u>757</u>	<u>100.0</u>	<u>643</u>	<u>100.0</u>

Sunday, which accounted for roughly half of all complaint occurrences (48.2%). There was a relatively equal distribution of occurrences on the remaining days ranging from 11% to 14% per day. The full list of the days of the week and the respective number of complaint incidents taking place on each day may be found in Table 2.

The days on which complaints were actually filed, however, vary considerably from the days on which the complaints actually occurred. The variance between occurrence date and the filing date is attributable to the fact that relatively few complaints (28.5%) were filed on the same day as the date of the complaint incident. The most frequent days on which complaints were formally lodged were at the beginning of the week from Monday to Wednesday -- accounting for 56.6% of all complaints filed. Relatively few complaints were filed on Saturdays and Sundays. These data may be found in Table 3.

With respect to the time of day at which a complaint incident occurred, roughly 60% of the incidents leading to complaints took place between 6 p.m. and 3 a.m. (61.9%). The one time period which accounted for the greatest number of total occurrences was from midnight to 3 a.m. -- 25.1% of all occurrences took place during this time period. The complete list of time of occurrences is presented in Table 4.

3. Time from Date of Occurrence to Date of Filing

The number of days from the date a complaint incident took place to the date the complaint was actually filed averaged 15.9 days. This figure is somewhat misleading, however, since nearly two-thirds of the complaints

TABLE 2

DAY COMPLAINT INCIDENT OCCURRED

	<u>No.</u>	<u>%</u>
MONDAY	71	11.2
TUESDAY	91	14.4
WEDNESDAY	81	12.8
THURSDAY	85	13.4
FRIDAY	93	14.7
SATURDAY	124	19.6
SUNDAY	<u>88</u>	<u>13.9</u>
TOTAL CASES	<u>633*</u>	<u>100.0</u>

* NOTE: When the total of the "number" column is less than the actual total for the database (643), the difference is due to the fact that some information required for the table was missing, thus reducing the total for that particular measure.

TABLE 3

DAY COMPLAINT FILED

	<u>No.</u>	<u>%</u>
MONDAY	123	19.1
TUESDAY	118	18.4
WEDNESDAY	123	19.1
THURSDAY	81	12.6
FRIDAY	108	16.8
SATURDAY	48	7.5
SUNDAY	<u>42</u>	<u>6.5</u>
TOTAL CASES	<u>643</u>	<u>100.0</u>

TABLE 4

TIME COMPLAINT INCIDENT OCCURRED

	<u>No.</u>	<u>%</u>
12:01 A.M. TO 3:00 A.M.	148	25.1
3:01 A.M. TO 6:00 A.M.	28	4.7
6:01 A.M. TO 9:00 A.M.	23	3.9
9:01 A.M. TO NOON	36	6.1
NOON TO 3:00 P.M.	60	10.2
3:01 P.M. TO 6:00 P.M.	78	13.2
6:01 P.M. TO 9:00 P.M.	111	18.8
9:01 P.M. TO 12:00 P.M.	<u>106</u>	<u>18.0</u>
TOTAL CASES	<u>590</u>	<u>100.0</u>

(64.1%), were filed within one week of the occurrence: 28.5% of the complaints were filed on the same day as the date of the occurrence, while 12.1% were filed on the next day. 12.0% were filed two to three days later, while another 11.5% of the complaints were filed four to seven days after the occurrence. The data on the number of days from the date of occurrence to date of filing is presented in Table 5.

4. Month of Occurrence

No discernible pattern was found with respect to the month in which complaint incidents occurred. There was a fairly equal distribution of occurrences over the 12 months of the year, ranging from 6.9% in September to 10.8% in April. These data are presented in Table 6.

5. Location of Complaint Incident

51.9% of the incidents that led to the lodging of complaints against the police took place on the street. The next most frequent location was at a residence (18.5%). In order of declining frequency, incidents also occurred in: public buildings (13.4%), police buildings (11.7%), police vehicles (2.2%), plazas or malls (1.7%), and school yards (0.6%). The complete list of locations of occurrences leading to complaints may be found in Table 7.

TABLE 5

TIME FROM DATE OF OCCURRENCE TO DATE OF FILING

	<u>No.</u>	<u>%</u>
SAME DAY	181	28.5
1 DAY	77	12.1
2-3 DAYS	76	12.0
4-5 DAYS	37	5.8
6-7 DAYS	36	5.7
8-14 DAYS	81	12.8
15-21 DAYS	30	4.7
22-30 DAYS	18	2.8
31-45 DAYS	19	3.0
46-60 DAYS	11	1.7
61-90 DAYS	21	3.3
OVER 90 DAYS	<u>48</u>	<u>7.6</u>
 TOTAL CASES	 <u>635</u>	 <u>100.0</u>

\bar{X} DAYS = 15.9

TABLE 6

MONTH OF OCCURRENCE

	<u>No.</u>	<u>%</u>
JANUARY	60	9.4
FEBRUARY	46	7.2
MARCH	55	8.6
APRIL	69	10.8
MAY	51	8.0
JUNE	54	8.4
JULY	68	10.6
AUGUST	52	8.1
SEPTEMBER	44	6.9
OCTOBER	46	7.2
NOVEMBER	46	7.2
DECEMBER	<u>49</u>	<u>7.6</u>
TOTAL CASES	<u>640</u>	<u>100.0</u>

TABLE 7

LOCATION OF COMPLAINT INCIDENTS

	<u>No .</u>	<u>%</u>
STREET	334	51.9
RESIDENCE	119	18.5
PUBLIC BUILDING	86	13.4
POLICE BUILDING	75	11.7
POLICE VEHICLE	14	2.2
PLAZA OR MALL	11	1.7
SCHOOLYARD	<u>4</u>	<u>0.6</u>
TOTAL CASES	<u>643</u>	<u>100.0</u>

6. Police Divisions Involved in Complaints

The Police Division with the highest incidence of complaints was once again 52 Division, which accounted for 19.3% of all the complaints lodged. 14 Division had the next highest incidence with 9.1% of all complaints, followed by 55 Division with 8.9%. 31 Division accounted for 7.5% of all complaints while 51 Division accounted for 7.4%. The remaining Divisions all had 6.0% or fewer complaints lodged against their police officers. The full list of Police Divisions in which complaints occurred may be found in Table 8.

In an attempt to account for the rather high incidence of complaints arising out of 52 Division, one may again point to its location in the downtown core where there is considerably more activity than in other areas. The high number of contacts that officers of this Division have with the public could also contribute to a greater number of complaints arising out of this Division. Another factor may be that 52 Division has the largest number of police officers of any Division in Metropolitan Toronto.

7. Types of Complaint Allegations

The average number of allegations per complainant was 2.0. 70.6% of the cases contained one (33.9%) or two (36.7%) complaint allegations. Three, four or five complaint allegations were made by 20.7%, 6.8% and 1.6% of the complainants respectively. Two cases (0.3%) involved six complaint allegations per case.

The most frequent type of allegation lodged against a police officer was assault: nearly half of the complaints

TABLE 8

POLICE DIVISION IN WHICH COMPLAINTS OCCURRED

<u>POLICE DIVISION</u>	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
DIVISION 11	30	4.1	25	3.9
DIVISION 12	18	2.5	13	2.1
DIVISION 13	29	4.0	33	5.2
DIVISION 14	62	8.4	58	9.1
DIVISION 21	15	2.0	13	2.1
DIVISION 22	35	4.8	32	5.0
DIVISION 23	27	3.7	14	2.2
DIVISION 31	58	7.9	48	7.5
DIVISION 32	33	4.5	31	4.9
DIVISION 33	27	3.7	21	3.3
DIVISION 41	40	5.4	37	5.8
DIVISION 42	18	2.5	18	2.8
DIVISION 43	41	5.6	14	2.2
DIVISION 51	37	5.0	47	7.4
DIVISION 52	119	16.2	123	19.3
DIVISION 53	40	5.4	16	2.5
DIVISION 54	36	4.9	37	5.8
DIVISION 55	<u>69</u>	<u>9.4</u>	<u>57</u>	<u>8.9</u>
TOTAL CASES	<u>734</u>	<u>100.0</u>	<u>637</u>	<u>100.0</u>

filed involved an allegation of assault against a police officer -- 41.4% complained of common assault* while 5.6% complained of assault causing bodily harm. The latter decreased considerably from 8.6% in 1983. The second most frequent complaint was that of verbal abuse/incivility, with 45.3% of the complainants filing this type of complaint. The following four types of complaints also appeared with some regularity: irregularity in procedure 32.3%; harassment/oppressive conduct/threats 24.6%; unlawful arrest 11.2%; mishandling of property 8.7%; neglect of duty 8.6%; and unlawful search 5.0%. The complete list of types of complaints and the number of complainants who complained of each type may be found in Table 9.

8. Precipitating Factors

The actual incident that led to or precipitated the complaint was also recorded in the complaint recording form. The most common type of incident involved police officers stopping people for traffic violations: 30.8% of all complaints arose out of this situation. The second most frequent precipitating factor involved a criminal investigation by the police (29.2%). The only other precipitating factor which occurred with any regularity was arrest: 19.8% of the complaints resulted from an incident that occurred during the arrest of the complainant. There appeared to be no apparent precipitating factor in 6.0% of the cases. The full list of precipitating factors is presented in Table 10.

* Common assault includes any allegation of force such as a shove, a push or a nudge.

TABLE 9
TYPES OF COMPLAINT ALLEGATIONS FILED

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
ASSAULT	385	50.9	302	47.0
COMMON ASSAULT	320	42.3	266	41.4
ASSAULT BODILY HARM	65	8.6	36	5.6
VERBAL ABUSE/INCIVILITY	356	47.0	291	45.3
HARASSMENT/THREAT/ OPPRESSIVE CONDUCT	222	29.3	158	24.6
IRREGULARITY IN PROCEDURE	201	26.6	208	32.3
MISHANDLING OR DAMAGE TO PROPERTY	82	10.8	56	8.7
NEGLECT OF DUTY	66	8.7	55	8.6
UNLAWFUL ARREST	54	7.1	72	11.2
UNLAWFUL SEARCH	45	5.9	32	5.0
DECEIT	24	3.2	19	3.0
TRAFFIC IRREGULARITY BY OFFICER	20	2.6	17	2.6
TRAFFIC IRREGULARITY/IMPROPER EXERCISE OF DISCRETION	15	2.0	4	0.6
CORRUPTION/THEFT/FRAUD	12	1.6	9	1.4
INTOXICATED	7	0.9	6	0.9
IRREGULARITY RE: EVIDENCE	6	0.8	9	1.4
NO FOLLOW-UP	4	0.5	5	0.8
BREACH OF CONFIDENCE	2	0.3	4	0.6
SEXUAL HARASSMENT	1	0.1	2	0.3
INADEQUATE POLICE SERVICE	0	0.0	6	0.9
OTHER	<u>5</u>	<u>0.7</u>	<u>2</u>	<u>0.3</u>
 TOTAL RESPONSES	<u>1507</u>	<u>199.0</u>	<u>1257</u>	<u>195.5</u>

NOTE: The total percentage of complaint allegations exceeds 100% due to the fact that some complainants lodged more than one allegation. The percentages reported above reflect the percentage of complainants who lodged each type of complaint allegation.

TABLE 10

FACTORS PRECIPITATING COMPLAINTS

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
CRIMINAL INVESTIGATION	260	34.3	188	29.2
TRAFFIC VIOLATION	200	26.4	198	30.8
ARREST	127	16.8	127	19.8
PARKING VIOLATION	31	4.0	33	5.1
BYLAW INVESTIGATION	27	3.6	7	1.1
INTERROGATION	21	2.8	2	0.3
REQUEST IDENTIFICATION	12	1.6	13	2.0
DOMESTIC MATTER	8	1.1	19	3.0
DURING COURT PROCEEDINGS	3	0.4	0	0.0
LANDLORD/TENANT DISPUTE	3	0.4	5	0.8
OTHER	10	1.3	12	1.9
NO APPARENT PRECIPITATING FACTOR	<u>55</u>	<u>7.3</u>	<u>39</u>	<u>6.0</u>
TOTAL CASES	<u>757</u>	<u>100.0</u>	<u>643</u>	<u>100.0</u>

A description of each type of precipitating factor is provided below.

Traffic Violations:

Sole cause of police intervention is a Highway Traffic Act offence (not Criminal Code offence such as impaired driving, which would be coded as criminal investigation) and the allegation of misconduct arises out of this intervention. Example: Allegation that officer called complainant a "goof" when giving a speeding ticket.

Criminal Investigation:

Sole cause of police intervention is the investigation of a criminal offence. Police may have been called in or intervened of their own accord and the allegation of misconduct arose when they were in the process of investigating a crime. Criminal investigation could occur anywhere, e.g. residence, shopping mall, police building.

Example: Allegation of assault at police station while officers attempting to take a statement from the complainant to confess to a crime. Example: Officer has a description of a suspect. Complainant is walking along street. Officer thinks he has reasonable and probable grounds to believe that complainant is the suspect. Officer asks for identification. Complainant refuses. Officer arrests complainant. Allegation is that officer has no right to ask for identification.

Arrest:

Allegation of misconduct occurs while police are in the act of effecting an arrest. Example: Same as in Criminal Investigation example, except that allegation is that officer struck complainant at time of arrest.

Interrogation Unrelated to Criminal Activity:

Questioning complainant about matters not related to any specific criminal offence. No indication that complainant is under arrest although he may be detained. If detained, the complainant is released without being charged. Example: Complainant is walking along the street and asked why she is walking alone late at night, where she lives, who she lives with and where she works. Allegation is that officer was harassing her.

Request for Identification:

Sole cause of police intervention is request for identification. No indication that complainant was involved in any offence or that police were investigating any offence and not a situation where it may be mandatory to identify oneself (e.g., Highway Traffic Act). Example: Complainant is walking along street and police officer asks her for her name. Complainant refuses and police officer then asks her to produce identification. Complainant again refuses. Allegation is that officer had no right to ask for identification and that officer shouted and swore at complainant following her second refusal; when she finally complied, the officer detained her in his police cruiser for twenty minutes while he checked her out over his radio.

Parking Violation:

Sole cause of police intervention is a parking violation and allegation of misconduct arises out of this intervention. Example: Allegation that officer improperly exercised discretion when she gave complainant a ticket in a no parking zone. Complainant drives for a courier service in a clearly marked stationwagon with an "on delivery" sign. He was away from his vehicle for five minutes and officer was just beginning to write ticket when he returned, but would not listen to his explanation.

Domestic Matter:

Sole cause of police intervention was a call to assist in a domestic dispute and an allegation arises out of this intervention.

Example: Allegation that officer struck complainant whose wife had called police to help her defend against a drunken husband.

No Precipitating Factor:

No apparent cause that precipitated the complaint. Example: Complainant standing on sidewalk. Police cruiser stops and with hand motions complainant to cross. Complainant did not wish to use crosswalk, i.e., was waiting for streetcar and motioned officer to this effect. Verbal abuse allegation followed.

Other:

Situations that do not fall into any of the above categories. Example: Police officer attended complainant's home in uniform to collect overdue rent. Officer is landlord of this building.

9. Alleged Injuries and Damages

There were no injuries alleged in 64.7% of the complaints filed. For the remainder, the most frequent type of injury alleged was cuts or bruises: 31.8% of the complainants reported this type of injury. The remaining types of injuries alleged occurred with very little frequency: 4.9% complained of injuries or pain inflicted by handcuffs while another 5.5% of the complainants reported fractures, internal injuries, damage to teeth, etc. The full list of alleged injuries to complainants may be found in Table 11.

TABLE 11

ALLEGED INJURIES TO COMPLAINANTS

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
CUTS, BRUISES	269	35.7	203	31.8
HANDCUFF INJURIES	26	3.5	31	4.9
FRACTURES	13	1.7	15	2.4
TEETH	10	1.3	6	0.9
INTERNAL INJURIES	6	0.8	8	1.3
GENITALIA INJURIES	2	0.3	6	0.9
NO INJURIES	<u>472</u>	<u>62.7</u>	<u>413</u>	<u>64.7</u>
 TOTAL RESPONSES	 <u>798</u>	 <u>106.0</u>	 <u>682</u>	 <u>106.9</u>

NOTE: The total number of injuries alleged exceeds 100% due to the fact that a complainant could have suffered more than one injury.

The severity of the injuries was also recorded with respect to those complainants who alleged injuries: 42.3% of the alleged injuries were minor in nature (mild bruises, small lacerations - i.e. scratches); 50.0% of the alleged injuries were moderate (extensive bruising, cuts, swelling), while 7.7% of the alleged injuries were considered to be serious in nature (very extensive bruising, fractures, severe lacerations, severe swelling, internal injuries).*

Complainants attended a hospital in 41.8% of those cases in which injuries were alleged.

Of those cases in which allegations of assault had been made, 14.6% made mention of a baton being used in the assault allegation. Batons were allegedly used in a variety of ways: the police officer held the baton to the complainant's neck, jabbed, poked or hit the complainant with the baton. Last year, use of a baton was mentioned in 18.7% of the cases involving assault allegations, and 12.8% the year before.

The incidence of property damage claimed by complainants was relatively low. Only 6.4% of the complaints involved allegations of property damage. In 4.2% of the complaints, alleged damage was considered to be minor in nature (damage estimated under \$75 - small scratches, dents, etc.), while in 1.1% of the complaints, alleged damage was of moderate severity (damage estimated

* The degree of severity for the injuries recorded was a subjective judgment made on the part of the researcher coding this information.

under \$150 - broken windows, damaged doors, etc.). The remaining 1.1% of the cases involved allegations of serious property damage estimated at a value greater than \$150.*

10. Photographs Taken

In cases of injury or property damage, no photographs were taken in 54.2% of the cases. This may be accounted for by the fact that the injuries involved in many of these cases were no longer visible at the time the complaint was filed. In addition, where the injury was internal, and thus not visible, no photographs would be taken. Photographs were taken by the Police Identification Unit in 32.0% of the cases, by the Public Complaints Commissioner in 5.8% of the cases, and by the complainant or others in 8.0% of the cases.

The data on photographs taken are presented in Table 12.

11. Type of Police Mobilization

In 72.8% of the cases the police used their own discretion to intervene. In 27.2% of the cases, the police were called, that is, their assistance was requested and a complaint incident subsequently arose out of the situation.

In 57.2% of the cases the complainants were not in police custody at the time of the complaint incident. In 42.8% of the cases the complainant was either being taken into custody or was actually in custody at a Police Station at the time of the complaint incident.

* The degree of severity for the property damage noted was a subjective judgment made on the part of the researcher coding this information.

TABLE 12

PHOTOGRAPHS TAKEN OF INJURIES ALLEGED
TO HAVE RESULTED FROM POLICE MISCONDUCT

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
BY POLICE IDENTIFICATION UNIT	111	39.6	72	32.0
BY PUBLIC COMPLAINTS COMMISSIONER	23	8.2	13	5.8
BY OTHERS	1	0.4	2	0.9
BY COMPLAINANT	3	1.1	7	3.1
BY BUREAU	4	1.4	9	4.0
NO PHOTOGRAPHS TAKEN	<u>138</u>	<u>49.3</u>	<u>122</u>	<u>54.2</u>
 TOTAL CASES	<u>280</u>	<u>100.0</u>	<u>225</u>	<u>100.0</u>

C. DATA ON COMPLAINANTS

1. Police Division of Complaint

The Police Division in which the complaint incident actually occurred was often the same as the one in which the complainant lived, or was adjacent to the Division where the complainant lived. 47.9% of the complainants lived in the same Police Division as that of the occurrence while 20.0% lived in a Division adjacent to the Division of the occurrence. 32.1% of the complaint incidents did not take place in a Division close to the complainant's residence.

2. Sex, Age & Residence of Complainants

The great majority of complainants was once again male (82.9%); female complainants comprised 17.1% of the total. Complainants tended to be young, with two-thirds of them being 35 years of age or under: 34.2% were 25 years of age or under while 32.3% were 26 to 35 years of age. The full list of age categories of complainants may be found in Table 13.

The majority of complainants (83.3%) lived in unsubsidized housing while 8.8% lived in subsidized dwellings. These data are presented in Table 14.

15.5% of the complainants were allegedly or admittedly intoxicated or on drugs at the time of the complaint incident: 14.6% were allegedly or admittedly intoxicated while 0.3% were allegedly or admittedly on drugs. Another 0.6% had apparently consumed both alcohol and drugs.

TABLE 13

AGE OF COMPLAINANTS

	<u>No.</u>	<u>%</u>
UNDER 16 YEARS	8	1.5
16 TO 17 YEARS	11	2.1
18 TO 25 YEARS	160	30.6
26 TO 35 YEARS	169	32.3
36 TO 45 YEARS	97	18.5
46 TO 55 YEARS	49	9.4
56 TO 65 YEARS	20	3.9
OVER 65 YEARS	<u>9</u>	<u>1.7</u>
TOTAL CASES	<u>523</u>	<u>100.0</u>

TABLE 14

RESIDENCE OF COMPLAINANTS

	<u>No.</u>	<u>%</u>
UNSUBSIDIZED SINGLE/MULTIPLE DWELLING	345	57.0
UNSUBSIDIZED HIGHRISE	<u>159</u>	<u>26.3</u>
	<u>504</u>	<u>83.3</u>
 SUBSIDIZED SINGLE/MULTIPLE DWELLING	18	3.0
SUBSIDIZED HIGHRISE	<u>35</u>	<u>5.8</u>
	<u>53</u>	<u>8.8</u>
 OTHER	<u>48</u>	<u>7.9</u>
 TOTAL CASES	<u>605</u>	<u>100.0</u>

3. Minority Aspect of Complaints

One aspect of the complaint, as seen from the complainant's perspective, was some form of racially derogatory comment in 7.3% of the cases, and harassment by police of homosexuals in 1.1% of the cases. This is down somewhat from last year's figures of 9.4 and 1.3%, respectively. Accordingly, the large majority of complaints filed (91.6%) did not appear to arise from racial or homosexual causes as indicated by the complainant.

4. Criminal Charges Against Complainants

In fewer than one third of the incidents giving rise to complaints (29.7%), the police laid criminal charges against complainants -- dangerous-driving charges, obstruct police, property offences, etc. The full list of criminal charges may be found in Table 15.* The vast majority of these charges (99.5%) were laid before a complaint had been filed by the complainant.

Of the 191 charges laid against complainants, the P.C.C. was unable to determine the outcome in 29 of the cases simply because this information was not available. Of the remaining charges, 56.2% of the complainants were found guilty as charged, while 19.8% were found not guilty. 13.0% of the charges were withdrawn. The outcome in 8.6% of the cases is still pending, while a bench warrant was issued in the remaining 2.4% of the cases.

* In some cases there were multiple charges laid. Only the most serious charge was recorded for the purposes of our data collection.

TABLE 15

CRIMINAL CHARGES* LAID BY POLICE AGAINST COMPLAINANTS

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
NO CRIMINAL CHARGE	524	69.2	452	70.3
INTOXICATED, DISORDERLY	22	2.9	16	2.5
OBSTRUCT POLICE	54	7.1	42	6.5
DRIVING VIOLATION	43	5.7	28	4.4
PROPERTY OFFENCE	63	8.3	32	5.0
ASSAULT	34	4.5	51	7.9
PUBLIC MISCHIEF	3	0.4	3	0.5
OTHER	<u>14</u>	<u>1.9</u>	<u>19</u>	<u>2.9</u>
TOTAL CASES	<u>757</u>	<u>100.0</u>	<u>643</u>	<u>100.0</u>

NOTE: In some cases there were multiple charges laid.
Only the most serious charge was recorded for the
purposes of our data collection.

D. POLICE OFFICERS INVOLVED IN COMPLAINTS

This section consists of a discussion of the police officers that were involved in the complaint allegations filed. 1074 police officers were involved in the closed cases for this year (excluding withdrawn cases)*. Descriptive data on officers were collected up to a maximum of four officers per complaint. Since most cases involved only a few officers, allowing space for up to four to be coded was generally more than sufficient. There were, however, several cases which exceeded four officers in number but only four could be coded. Thus the number of officers for whom descriptive data was collected (1009) was less than the actual number involved in this year's closed cases (1074). Officers in 10 cases could not be identified and were, thus, treated as missing data, reducing the total to 999. On the average, there were 1.6 police officers involved per complaint filed.

Only one police officer was involved in 52.6% of the cases while two police officers were involved in 28.0% -- this accounted for 80.6% of the total. The data on the number of police officers involved per complainant may be found in Table 16.

The great majority of police officers (98.8%) were on duty at the time that the complaint incident occurred. Only 1.2% of the officers were off duty during the incident.

* Data on police officers were not pursued in cases where the complaint was later withdrawn.

TABLE 16

NUMBER OF POLICE OFFICERS INVOLVED PER COMPLAINT

<u>POLICE OFFICERS</u>	<u>No.</u>	<u>%</u>
1	295	52.6
2	157	28.0
3	41	7.3
4	37	6.6
5	18	3.2
6	7	1.2
7	4	0.7
8	<u>2</u>	<u>0.4</u>
 TOTAL CASES	 <u>561</u> *	 <u>100.0</u>

$$\bar{X} = 1.6 \text{ OFFICERS}$$

* NOTE: The total number of relevant cases involved here is 563: 643 (total closed cases) minus 80 (withdrawn cases) = 563. There were 2 cases in which data on the number of police officers were missing, thereby reducing the total to 561.

1. Rank of Police Officers Involved in Complaints

Very few of the police officers involved in complaints were senior officers: 3.3% were staff inspectors or staff sergeants, while 10.4% were sergeants. Thus, 13.7% of the total number of police officers involved in the complaints occupied a rank higher than constable. The majority of the officers complained of had the rank of police constable first class (77.0%). The remaining officers were second, third or fourth class constables. These data may be found in Table 17.

2. Years of Service for Police Officers
Involved in Complaints

7.4% of the police officers involved in complaints had one to two years of service while 16.4% had three to five years of service with the Force. The majority, 59.2%, had six to fifteen years of experience with the Force: 40.8% were with the Force six to ten years while 18.4% had been with the Force eleven to fifteen years. The remaining 17.0% had been with the Force for over sixteen years. These data may be found in Table 18.

3. Private Criminal Charges Laid by Complainants
Against Police Officers

In nine cases (1.4%), criminal charges were laid privately by complainants against police officers. In six of these cases the charge laid was common assault and in the remaining three cases, the charge was assault causing bodily harm. Four of the nine cases were withdrawn before they went to trial. In the five other cases, the police officers were found not guilty.

TABLE 17

RANK OF POLICE OFFICERS INVOLVED IN COMPLAINTS

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
STAFF SUPERINTENDENT	1	0.1	0	0.0
STAFF INSPECTOR	5	0.5	2	0.2
STAFF SERGEANT	30	2.8	31	3.1
SERGEANT	109	10.3	104	10.4
CONSTABLE 1	788	74.5	769	77.0
CONSTABLE 2	63	6.0	52	5.2
CONSTABLE 3	52	4.9	34	3.4
CONSTABLE 4	<u>10</u>	<u>0.9</u>	<u>7</u>	<u>0.7</u>
 TOTAL OFFICERS	<u>1058</u>	<u>100.0</u>	<u>999</u>	<u>100.0</u>

TABLE 18

YEARS OF SERVICE FOR OFFICERS NAMED IN COMPLAINTS

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
UNDER 1 YEAR	15	1.4	11	1.2
1 TO 2 YEARS	90	8.5	62	6.2
3 TO 5 YEARS	186	17.6	164	16.4
6 TO 10 YEARS	465	44.0	407	40.8
11 TO 15 YEARS	156	14.8	183	18.4
16 TO 20 YEARS	79	7.5	102	10.2
OVER 20 YEARS	<u>65</u>	<u>6.2</u>	<u>68</u>	<u>6.8</u>
TOTAL OFFICERS	<u>1056</u>	<u>100.0</u>	<u>997</u>	<u>100.0</u>

E. DISPOSITIONS OF COMPLAINTS BY THE POLICE

The dispositions of complaints given by the Police Force are presented over several tables. The overall dispositions are presented in Table 19. 65.3% of the cases were formally resolved after a complete investigation had been conducted. This means that a decision was made by a Deputy Chief of Police regarding the complaint. 22.3% of the complaints were informally resolved to the expressed mutual satisfaction of both parties, while 12.4% of the cases were withdrawn.

A more detailed breakdown of the dispositions is presented in Table 20, consisting of an analysis of the entire sample with respect to the reasons given for the dispositions. Tables 20A, 20B and 20C deal separately with the dispositions given for formal and informal resolutions respectively.

1. Analysis of Formal Resolutions

420 of the cases in our sample (65.3%) were resolved formally. In those cases where there was a finding of "no action warranted", the primary reason was insufficient evidence to prove or disprove the allegation. This was the reason given in 64.5% of the formal resolutions. These cases generally involved an allegation by the complainant and a denial of that allegation by the police officer with no independent evidence to support either version of the incident. This does not mean that the Deputy Chief allotted more weight to the police officer's version of the events nor that he doubted the word or motive of either the complainant or the police officer. Rather, it means that the Deputy Chief declined to take action because insufficient evidence was available.

TABLE 19

DISPOSITIONS OF COMPLAINTS BY THE POLICE

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
FORMAL RESOLUTIONS	441	58.2	420	65.3
INFORMAL RESOLUTIONS	214	28.3	143	22.3
COMPLAINTS WITHDRAWN	<u>102</u>	<u>13.5</u>	<u>80</u>	<u>12.4</u>
TOTAL CASES	<u>757</u>	<u>100.0</u>	<u>643</u>	<u>100.0</u>

TABLE 20

DETAILED ANALYSIS OF DISPOSITIONS OF COMPLAINTS

BY THE POLICE

	<u>No.</u>	<u>%</u>
<u>FORMAL RESOLUTIONS</u>		
No action warranted due to:		
Insufficient evidence to prove allegation	271	42.1
Officer's statement verified by independent witness/corroborating evidence	73	11.4
Officer acted lawfully	40	6.2
Other	1	0.1
Officer counselled and/or cautioned	25	3.9
Officer charged under Police Act	7	1.2
Officer referred to Board by Deputy	2	0.3
Officer advised and/or spoken to	<u>1</u>	<u>0.1</u>
TOTAL FORMAL RESOLUTIONS	420	65.3
<u>INFORMAL RESOLUTIONS</u>		
Complainant content to make police force aware of complaint	75	11.7
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	42	6.5
Parties signified agreement by signature; no apparent reason for agreement	14	2.2
Complainant acknowledged he may have been mistaken about alleged misconduct	7	1.2
Officer counselled and/or cautioned	4	0.6
Officer advised/spoken to by superiors	<u>1</u>	<u>0.1</u>
TOTAL INFORMAL RESOLUTIONS	143	22.3
COMPLAINTS WITHDRAWN	<u>80</u>	<u>12.4</u>
TOTAL DISPOSITIONS OF CASES	<u>643</u>	<u>100.0</u>

TABLE 20A

ANALYSIS OF FORMAL RESOLUTIONS BY THE POLICE

	<u>No.</u>	<u>%</u>
No action warranted due to:		
Insufficient evidence to prove allegation	271	64.5
Officer's statement verified by independent witness/corroborating evidence	73	17.4
Officer acted lawfully	40	9.5
Other	1	0.2
Officer counselled and/or cautioned	25	6.0
Officer charged under Police Act	7	1.7
Officer referred to Board by Deputy Chief*	2	0.5
Officer advised/spoken to	<u>1</u>	<u>0.2</u>
 TOTAL FORMAL RESOLUTIONS	 <u>420</u>	 <u>100.0</u>

*NOTE: An Officer may also be referred to the Board by the Public Complaints Commissioner. See Table 22.

Other reasons for a finding of "no action warranted" were that the police officer's position had been verified independently by other witnesses (73 cases or 17.4%), and that the officer had acted lawfully (40 cases or 9.5%).

In 35 or 8.4% of these cases the Deputy Chief took some disciplinary or educational action: in 25 (6.0%) of the cases, the officer was counselled and/or cautioned; 7 cases led to disciplinary charges under the Police Act; 2 cases resulted in a Deputy Chief referring the matter to the Police Complaints Board; and one officer was advised/spoken to.

The Police Force defines a "caution" as a form of discipline where the officer is warned that further misconduct may result in a charge pursuant to the Police Act. A "counsel" is used where the actions of the officer involved relatively minor infractions committed unintentionally or through inexperience. It means that a superior officer speaks to the subject officer with a view to help him or her to improve performance. Both are forms of discipline and are recorded in the police officer's file, which is retained at Headquarters.

In the seven cases in which police officers were charged under the Police Act, two charges were withdrawn, two officers were found not guilty and three officers were convicted. Penalties were two reprimands and one reduction in rank. In one of the cases that was withdrawn, the officer was also counselled. 7 additional Police Act charges were laid in 1984; however, the trials for these cases remain pending.

Two cases were referred to the Police Complaints Board by the Deputy Chief, resulting in three separate hearings being called. In one hearing an officer was

found guilty of misconduct and the Board ordered a forfeiture of 12 days pay. In the second case the Board dismissed the complaint and in the third case the case was withdrawn, as it related to the hearing where no misconduct was found. One additional case was referred to the Police Complaints Board by a Deputy Chief in 1984; however, the hearing in this matter is still pending.

The Deputy Chief of Police caused criminal charges to be laid against five officers in 1984. However, none of these were closed in the present reporting year and are, therefore, not included. Four of these charges are pending; in the other case the officer was found guilty of assault and sentenced to 30 days incarceration. The conviction and sentence are under appeal at the present time. It should be noted that in the previous year, nine officers were charged under the Police Act, and two under the Criminal Code.

In each case that is formally resolved, the Deputy Chief is required to give written reasons for his decision to the complainant, the subject officer and the Public Complaints Commissioner. A dissatisfied complainant has a right to have the P.C.C. review the Deputy Chief's decision. During the third year ending December, 1984, 98 requests for review were made. 80 cases were closed within the year (some of these dating from the first year) and are dealt with separately in this report.

52 review cases remained open on December 20, 1984, and will be included in the following year's report.

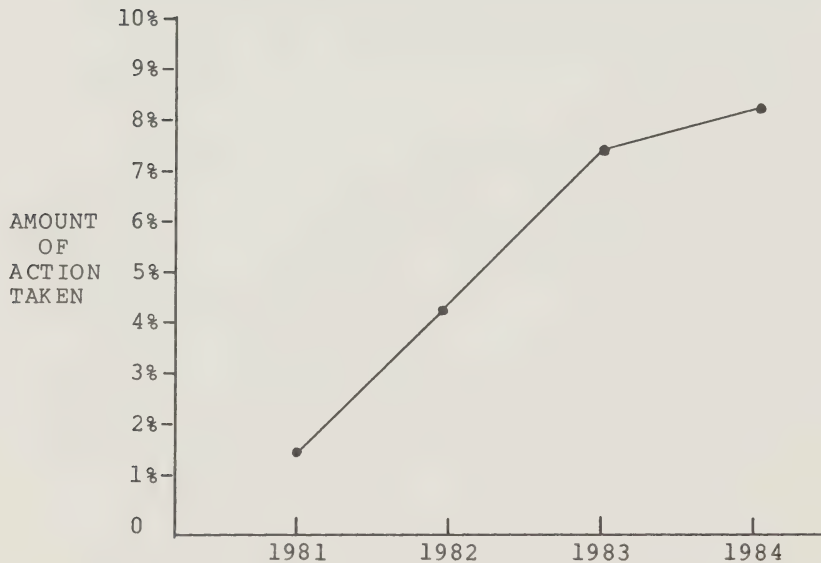
2. Disciplinary Action Taken by the Police

Disciplinary action taken by the Deputy Chief has progressively increased since the three year pilot project commenced on December 21, 1981. Prior to this, the P.C.C. functioned informally for the last five months of 1981. Statistics from that period showed that the Deputy Chief took some form of disciplinary action in 1.6% of the cases. In the first full year of operation (1982), the amount of disciplinary action increased to 4.2%. In the second year of operation (1983), the Deputy Chief took disciplinary action in 7.7% of the cases while in the third year (1984), this figure rose to 8.2%. In this context, disciplinary actions include a counsel or caution, Police Act charges or Criminal Code charges. These data may be found in Table 20B.

TABLE 20B
DISCIPLINARY ACTION TAKEN BY THE POLICE

	<u>1981*</u>	<u>1982</u>	<u>1983</u>	<u>1984</u>
	<u>%</u>	<u>%</u>	<u>%</u>	<u>%</u>
Officer counselled &/or cautioned	0.8	4.2	5.0	6.0
Officer charged under Police Act	0.0	0.0	2.0	1.7
Officer referred to Board	0.0	0.0	0.0	0.5
Officer charged under Criminal Code	<u>0.8</u>	<u>0.0</u>	<u>0.7</u>	<u>0.0**</u>
TOTAL DISCIPLINARY ACTION	<u>1.6</u>	<u>4.2</u>	<u>7.7</u>	<u>8.2</u>

GRAPHIC DEPICTION OF DISCIPLINARY ACTION TAKEN



* NOTE: Only 5 months data were available for 1981 -- from July 21 to December 21, 1981.

** Although no cases were closed in the present year, five charges were laid in 1984 which are still pending.

3. Analysis of Informal Resolutions

In 143 of the cases (22.3%), the complaints were resolved informally to the expressed mutual satisfaction of both parties.

Prior to the inception of the P.C.C., an informal resolution was simply recorded by the complainant signing a form indicating that the results of the investigation were explained to him and that he was satisfied with the investigation that was conducted. The form contained no details of the actual investigation nor any indication of the manner in which the complaint was resolved. It was not necessary for the subject officer to sign the form. As a result, the system was open to criticism because it did not preclude the possibility of a complainant signing the form without knowing the officer's response to his complaint or the nature and extent of the investigation that was conducted.

Under the new legislation, the officer in charge of the Bureau is required to consider whether a complaint can be resolved informally. In addition, complaints may be resolved informally by the Public Complaints Commissioner. Complaints can be resolved informally prior to, during or after completion of the investigation. However, a complaint may only be resolved informally if both the complainant and the subject officer agree. Furthermore, they must signify their agreement and satisfaction with the informal resolution by signing the specially designed form.

The manner in which the complaint is resolved must also be recorded. The form allows for a detailed explanation of the investigation conducted, including the officer's response, as well as an explanation of the manner in which the complaint was resolved. All informal resolutions are monitored by the Public Complaints Commissioner.

The 143 informal resolutions were analyzed in an attempt to discover the reasons why the complainants agreed to this method of resolution. These data may be found in Table 20C.

Overall, complaints that were resolved informally tended to be simpler in nature in that they involved fewer allegations of misconduct. Formally resolved complaints had an average of 2.2 allegations of misconduct per complaint whereas informally resolved complaints averaged 1.8 allegations of misconduct per complaint.

In 75 of the cases resolved informally (52.4%), the complainant was content simply to have brought the matter to the attention of the police force. In 42 of the informal resolutions (29.4%), the police officer either admitted the facts alleged, or apologized or explained his actions to the satisfaction of the complainant, while in 7 of the cases (4.9%) the complainant acknowledged that he may have been mistaken regarding the allegation of misconduct.

TABLE 20C

ANALYSIS OF INFORMAL RESOLUTIONS BY THE POLICE

	<u>No.</u>	<u>%</u>
Complainant content to make police force aware of complaint	75	52.4
Officer admitted allegation/apologized or explained actions to satisfaction of complainant	42	29.4
Parties signified agreement by signature; no apparent reason for agreement	14	9.8
Complainant acknowledged he may have been mistaken about alleged misconduct	7	4.9
Officer counselled and/or cautioned	4	2.8
Officer advised/spoken to by superiors	<u>1</u>	<u>0.7</u>
TOTAL INFORMAL RESOLUTIONS	<u>143</u>	<u>100.0</u>

In 4 cases (2.8%) the record of informal resolutions indicated that the officer was counselled and/or cautioned. In 1 case (0.7%) the record of informal resolution indicated that the officer was spoken to/advised by his superior.

There were no cases in the present year where a complainant resolved a case informally due to the absence of any independent evidence. In 1983, there was one case where lack of independent evidence was noted as the reason for the informal resolution of a complaint, while in 1982 there was a considerably higher number of cases (12) in this category. It was generally agreed through discussions with the Bureau that the lack of independent evidence was not, of itself, a sufficient reason to resolve the complaint informally. It is not the function of the investigator to draw such conclusions. This is an adjudicative function which must be performed by the Deputy Chief after a review of the complete investigation. As a result of these discussions, informal resolutions arising from lack of independent evidence have been entirely eliminated.

Finally, there were 14 cases (9.8%) where the reason for agreement to an informal resolution could not be determined. The complainant may have been satisfied to bring the matter to the attention of the police force. Conversely, it is possible that the complainant was simply not interested in pursuing the matter through the formal stages and, therefore, was satisfied with an informal resolution.

4. Withdrawals

80 or 12.4% of the complaints were withdrawn by the complainant.

An analysis of the withdrawals indicates that 47.5% of these complaints were filed at a police station, 28.7% with the Office of the Public Complaints Commissioner, and 17.5% at the Bureau. The remaining 6.3% of these complaints were filed either with the Deputy Chief or the Board of Commissioners of Police.

22.5% of the withdrawals were attributed to an admission of error on the part of the complainant. This was usually explained by the complainant having been intoxicated at the time of the incident so that a clear recollection of the events was impossible. In another 36.3% of the cases, the reasons for withdrawal were not known. 8.7% of the complainants who withdrew their complaint stated their desire to merely call attention to the incident or put it on the record rather than follow through with an investigation, while another 12.5% withdrew their complaints stating all their concerns or allegations had been dealt with in court. The remaining cases (20.0%) were withdrawn for miscellaneous reasons.

32.5% of the complainants who withdrew their complaints had retained lawyers. It is known that the withdrawal of some complaints was connected to the plea bargaining process. Although some such cases have come to the P.C.C.'s attention, the actual frequency of this occurrence cannot be ascertained by statistics, since this information is not available.

5. Dispositions by the Police for Officers
Involved in Complaints

17.6% of the police officers involved in complaints entered into informal resolutions. The majority of the officers (82.4%) were subject to a complete investigation followed by a decision of the Deputy Chief (formal resolution).

There was a finding of "no action warranted" for 77.8% of the officers. The reasons for the Deputy Chief not taking action are set out in Table 20. 3.1% of the officers were either spoken to, advised, counselled and/or cautioned by their superiors as a result of the complaint, while another 0.7% were charged under the Police Act in the present sample of closed cases. These data may be found in Table 21.

TABLE 21

DISPOSITIONS BY THE POLICE
FOR OFFICERS INVOLVED IN COMPLAINTS

	<u>1984</u>	
	<u>No.</u>	<u>%</u>
<u>FORMAL RESOLUTION</u>		
NO ACTION WARRANTED	836	77.8
OFFICER COUNSELLED AND/OR CAUTIONED	33	3.1
OFFICER REFERRED TO BOARD	8	0.7
POLICE ACT CHARGES	7	0.7
OFFICER ADVISED/SPOKEN TO	<u>1</u>	<u>0.1</u>
TOTAL FORMAL RESOLUTIONS	<u>885</u>	<u>82.4</u>
<u>INFORMAL RESOLUTION</u>		
INFORMAL RESOLUTION	184	17.1
INFORMAL RESOLUTION & OFFICER ADVISED/SPOKEN TO	2	0.2
INFORMAL RESOLUTION & OFFICER COUNSELLED AND/OR CAUTIONED	<u>3</u>	<u>0.3</u>
TOTAL INFORMAL RESOLUTIONS	<u>189</u>	<u>17.6</u>
 TOTAL DISPOSITIONS FOR POLICE OFFICERS	 <u>1074</u>	 <u>100.0</u>

F. REVIEWS COMPLETED BY THE PUBLIC COMPLAINTS COMMISSIONER

There were 80 reviews completed* in 1984, comprising 12.4% of all the closed complaints. This represents an increase of 11 reviews over the previous year, when 69 reviews were completed.

The Commissioner decided that no further action was warranted in 60, or 75.0% of those cases in which reviews were completed. 8, or 10.0% of the cases were withdrawn. Of the 60 cases in which no further action was warranted, the Commissioner agreed completely with the Chief's decision in 52, or 65.0% of these cases and agreed in part with the Chief's decision in 8, or 10.0% of the cases. In another 6 or 7.5% of the reviews, the Commissioner substantially agreed with the complainant but did not feel that it was in the public interest to order a Police Complaint's Board Hearing. These data may be found in Table 22.

In all cases in which a Police Complaint Board hearing was not ordered, a review report was written by the Commissioner. An example of a review report may be found in Part I.

* A "completed review" means a review of a case that was closed in the reporting year. Where the P.C.C. reviews a case and orders a Board hearing, the case is not closed until the hearing has ended. Therefore, in this reporting year, for example, there were 5 reviews where the P.C.C. ordered a Board hearing that was pending at the year-end. Accordingly, these 5 cases are not part of the 80 cases referred to above.

G. BOARD HEARINGS ORDERED BY PUBLIC COMPLAINTS
COMMISSIONER

In six or 7.5% of the review cases, the Commissioner ordered a Police Complaint's Board Hearing, the hearing was held, and a decision was reached. All hearings consisted of three-person board hearings. These data may be found in Table 22.

Excluding those cases which were withdrawn, there were 72 cases which could ultimately have led to Police Complaint Board Hearings. The number of Board Hearings that were ordered (6) as a function of the number of cases that could have led to such hearings (72) was just under 9% (8.3%). Thus, Board Hearings were ordered by the Commissioner in roughly one out of every twelve cases in which the complainant requested a review (excluding withdrawals and informal resolutions).

16 Board hearings were in the system during the present year. 12 were ordered by the Public Complaints Commissioner following reviews, while 4 were ordered by the Deputy Chief. Of the 16 hearings, 2 resulted in withdrawals of the complaints, while 6 are still pending. The remaining 8 hearings completed in this reporting year resulted in 4 police officers being found guilty of misconduct. 6 of these hearings were ordered by the Public Complaints Commissioner (Table 22); 2 were ordered by the Deputy Chief (Table 20A). The Board imposed disciplinary penalties which ranged from forfeiture of 3 days off to a 14 day suspension without pay. (See Part IV for further details).

TABLE 22

OUTCOME OF REVIEW OF COMPLAINT
BY PUBLIC COMPLAINTS COMMISSIONER

	<u>1983</u>		<u>1984</u>	
	<u>No.</u>	<u>%</u>	<u>No.</u>	<u>%</u>
NO ACTION WARRANTED	44	63.8	60	75.0
CASE WITHDRAWN	8	11.6	8	10.0
INFORMAL RESOLUTION	7	10.1	0	0.0
NOT IN PUBLIC INTEREST TO CONVENE BOARD HEARING	5	7.3	6	7.5
THREE PERSON BOARD*	4	5.8	6	7.5
ONE PERSON BOARD	<u>1</u>	<u>1.4</u>	<u>0</u>	<u>0.0</u>
TOTAL CASES	<u>69</u>	<u>100.0</u>	<u>80</u>	<u>100.0</u>

*NOTE: These six cases led to seven hearings being ordered by the P.C.C. In addition, the Deputy Chief of Police ordered three hearings which were closed in this reporting year. For a discussion of Board hearings, see Part IV.

H. LENGTH OF TIME BETWEEN VARIOUS STAGES
IN THE COMPLAINTS PROCESS

1. Time from Date Complaint Filed to
Date Copy Received by P.C.C.

The number of days from the date a complaint was filed at the Bureau or a police station to the date the P.C.C. received a copy of the complaint was recorded. In 33.2% of the cases a copy of the complaint was received at the P.C.C. Office on the same day it was filed. Another 27.7% were received within one or two days of filing, while 22.5% were received within three or four days. In total, copies of the vast majority of complaint forms (97.1%) were received within one week of filing. The average number of days from the date of filing to the date a copy of the complaint was received at the P.C.C. Office was 2.6 days. The full list of days may be found in Table 23.

2. Time from Complaint Filing to Interim Report

An interim report on the investigation of each complaint must be completed by the Public Complaints Investigation Bureau of the Police Force, and forwarded to the complainant, the subject officer, and the P.C.C. within 30 days of the Bureau's receipt of the complaint. In a number of cases, the entire investigation was completed within the 30-day period. No interim report was required since the final report served the same purpose. For those cases in which an interim report was completed (494), the average number of days from the date a complaint was filed to the date of the interim report was

TABLE 23

TIME FROM DATE COMPLAINT FILED TO DATE COPY RECEIVED

BY P.C.C.

	<u>No.</u>	<u>%</u>
SAME DAY	210	33.2
1-2 DAYS	175	27.7
3-4 DAYS	142	22.5
5-7 DAYS	87	13.7
8-13 DAYS	11	1.7
20-40 DAYS	6	1.0
46 DAYS	<u>1</u>	<u>0.2</u>
TOTAL CASES	<u>632</u>	<u>100.0</u>

\bar{X} DAYS = 2.6

32.9 days.* Thus, the processing of a complaint by the police with respect to the completion of an interim report was generally very close to the prescribed period. These data may be found in Table 24.

In only 19 or 3.9% of the cases were there significant delays between the filing of a complaint and the filing of the first interim report by the Bureau. The cases that exceeded the 30 day period were cases where the complaint originated outside the Bureau and time was spent in transmitting the complaint form.

* It should be noted that several days may pass from the date a complaint is filed to the date the Bureau actually receives the complaint file, since most complaints are not filed at the Bureau. Thus, time from the Bureau's receipt of a file to the P.C.C.'s receipt of an interim report would most likely be less than the above figure -- very close to 30 days.

TABLE 24

TIME FROM COMPLAINT FILING TO INTERIM REPORT

	<u>No.</u>	<u>%</u>
10-24 DAYS	4	0.8
25-30 DAYS	85	17.2
31-40 DAYS	386	78.1
41-61 DAYS	<u>19</u>	<u>3.9</u>
TOTAL CASES	<u>494</u>	<u>100.0</u>

$$\bar{X} \text{ DAYS} = 32.9$$

NOTE: It should be noted that while only 18% of the cases had their interim report completed within 30 days, over three-quarters (77.1%) had their reports completed within 34 days.

3. Time from Complaint Filing to Final Report
and Chief's Decision

The total number of days from the date a complaint was filed to the date of the final report* concerning the outcome of that complaint was also recorded. In 0.1% of the cases, the final report was completed on the same day as the day the complaint was filed. This occurred in a case where an informal resolution was achieved immediately at the time the complaint was filed. In 18.8% of the cases, a final report was completed within 30 days of the date of filing. 41.4% of the cases were completed with a final report produced within 60 days of filing. In roughly two-thirds of the cases (63.6%) a final report was completed within 90 days of filing. The average number of days from the date a complaint was filed to the date a final report was completed was 84.4 days. These data may be found in Table 25.

The number of days from the final report to the date of the Chief's decision averaged 39.5 days. In 12.1% of the cases, the Chief's decision came one week after the final report. In slightly less than one-half of the cases (46.9%) the Chief's decision was formulated within 30 days of the final report. These data may be found in Table 26.

The total number of days from the above-noted two periods -- from the date the complaint was filed to the date of the Chief's decision, averaged 144.3 days.

* "Final report" in this section refers to either a final investigative report by the Bureau or the Record of Informal Resolution.

TABLE 25

TIME FROM COMPLAINT FILING TO FINAL REPORT

	<u>No.</u>	<u>%</u>
SAME DAY	1	0.1
1-14 DAYS	36	5.6
15-30 DAYS	84	13.1
31-60 DAYS	145	22.6
61-90 DAYS	143	22.2
91-235 DAYS	220	34.2
236-393 DAYS	<u>14</u>	<u>2.2</u>
TOTAL CASES	<u>643</u>	<u>100.0</u>

\bar{X} DAYS = 84.4

TABLE 26

TIME FROM FINAL REPORT TO CHIEF'S DECISION

	<u>No.</u>	<u>%</u>
1-7 DAYS	51	12.1
8-21 DAYS	102	24.3
22-30 DAYS	44	10.5
31-60 DAYS	114	27.2
61-90 DAYS	85	20.2
OVER 90 DAYS	<u>24</u>	<u>5.7</u>
TOTAL CASES	<u>420</u>	<u>100.0</u>

\bar{X} DAYS = 39.5

4. Time from Chief's Decision to Request for Review

Any complainant has the right to request a review of the Chief's decision by the P.C.C. The average number of days from the date of the Chief's decision to the date of a request for review was 34.9 days. The number of days ranged from 3 days in one case to a maximum of 260 days in another case. In two-thirds of the cases (66.3%), requests for review were made within 30 days of the Chief's decision. These data may be found in Table 27.

5. Time from Request for Review to Decision by
Public Complaints Commissioner

The time involved from the date of a complainant's request for review to the date of the decision by the Public Complaints Commissioner averaged 178.4 days. 8.8% of the cases were completed within two months of the request for review while another 43.7% were completed within five months of the request. The remaining 47.5% of the cases required more than five months to complete. These data may be found in Table 28.

During the review process, contact with both the complainant and the subject officer is generally maintained, but it is clear that the average length of time required to complete a review must be reduced. Unfortunately, several delaying factors which were mentioned in our last report will always be present in the review process. These factors include the necessity of monitoring ongoing or pending trials in which relevant evidence might be uncovered, the awaiting of transcripts of trials, unavailable witnesses, and the need for analysis of forensic evidence and research into legal issues. In addition, the number of requests for review

TABLE 27

TIME FROM CHIEF'S DECISION TO REQUEST FOR REVIEW

	<u>No.</u>	<u>%</u>
3-7 DAYS	11	13.8
8-14 DAYS	18	22.5
15-30 DAYS	24	30.0
31-60 DAYS	18	22.5
61-90 DAYS	3	3.7
OVER 90 DAYS	<u>6</u>	<u>7.5</u>
TOTAL CASES	<u>80</u>	<u>100.0</u>

$$\bar{X} \text{ DAYS} = 34.9$$

TABLE 28

TIME FROM REQUEST FOR REVIEW TO P.C.C. DECISION

	<u>No.</u>	<u>%</u>
20-25 DAYS	2	2.5
31-60 DAYS	5	6.3
61-90 DAYS	17	21.2
91-120 DAYS	10	12.5
121-150 DAYS	8	10.0
151-180 DAYS	5	6.3
181-210 DAYS	8	10.0
OVER 210 DAYS	<u>25</u>	<u>31.2</u>
 TOTAL CASES	 <u>80</u>	 <u>100.0</u>

$$\bar{X} \text{ DAYS} = 178.4$$

has more than doubled during the three years of the pilot project, from 45 in year one to 98 in year three.

It should also be remembered that during the pilot project phase, it was of paramount importance to become established and to build our expertise in this very complex area. Accordingly, great emphasis was placed on accuracy and completeness. Virtually no conveyable investigative step was omitted and thus, investigative reports were lengthy, detailed and exhaustive. It was believed that this approach was necessary for other reasons as well. Both the complainant and the subject officer receive copies of the review report and if the report is comprehensive and complete, both will understand and appreciate the nature of the process and be assured that the process was thorough and fair. In addition, a copy of the review report is sent to the Bureau and to the Chief, pursuant to the legislation, and with the consent of the subject officer, a copy is also sent to the Police Association. It is believed that the cumulative effect of receiving these review reports with their exhaustive analysis of all the issues has had a beneficial educative impact on the parties concerned.

However, now that an acceptable level of expertise and credibility has been built up over the three year pilot period, speed of output has become much more of a priority.

Accordingly, since January 1985, two new steps have been taken to achieve this goal. First, in a concerted effort to process cases through the system more quickly without sacrificing the quality of a review, several changes were made in the review process itself. These changes involve identifying those cases at the outset which have no complex legal issues, outstanding legal

proceedings or other elements necessitating delay, so that their processing may be expedited through the system. These cases are now handled with less written, but more personal contact with the parties. Consequently, less time is expended in writing lengthy and complex review reports.

Secondly, improvements can be made in the administration of the case load including a new system of tracking open cases by computer. At the present time the system design is completed, the hardware is in place, and a suitable program is being developed. When the system is fully operational (mid 1985), it will enable the Director of Investigations to ensure that review cases are moving through the system in an orderly fashion and that any problems or delays may be immediately identified and dealt with. This will no doubt lead to greater efficiency and speed in responding to complainants' requests for reviews.

I. OTHER CONTACTS WITH THE P.C.C.

During this year, in addition to the formal complaints lodged, there were an additional 631 recorded contacts made with the P.C.C. office by 493 people, concerning inquiries which, although they did not develop into complaints, took a substantial amount of time to resolve.

Of these 631 contacts, 77.7% were made by telephone, 12.7% were made by letter, while 9.6% appeared in person. It is estimated that each of these initial inquiries required approximately 30 minutes of an investigator's time to resolve in addition to any subsequent time spent on follow-up.

Of the 493 people who made enquiries to the P.C.C. office during this period, 76 or 15.4% were referred in various ways, including referrals from government agencies, lawyers, or aldermen.

In 83.8% of these contacts, people inquired about specific incidents and wished to know whether or not they had a complaint within the P.C.C.'s jurisdiction. 3.2% of the contacts were requests for information about either the P.C.C. or the procedures set out in the legislation. 6.3% made general complaints regarding the police or the justice system; 2.6% requested information about non-police matters while 4.1% requested general information about the police, without having a specific complaint. The majority of these contacts involved some form of follow-up activity by the P.C.C. 205 additional telephone calls were made by investigators to aid in the resolution of these inquiries. 81 letters were written for the same purpose and 76 interviews were conducted. In 49 cases a subsequent follow-up appointment was made. In

15 of these cases the person inquiring attended the follow-up interview, while in 34 cases they did not.

80 or 12.7% of the contacts were made by people who wanted to lodge a complaint about a police officer on a police force other than the Metro Toronto Police. These complaints were not within the P.C.C.'s jurisdiction and were referred to the proper agencies.

In addition, various people were referred to the Metropolitan Toronto Police Force, the Law Society, municipal police authorities, Chiefs of Police in other jurisdictions, the Attorney General, the Ombudsman, the Ministry of Consumer & Commercial Relations, the Ministry of Labour and various Alderpersons.

During the present year, the P.C.C. dealt with approximately 1400 telephone enquiries that were directed to other agencies.

PART IV

Police Complaints Board

PART IV - POLICE COMPLAINTS BOARD

A. INTRODUCTION

A common misconception is that the Police Complaints Board is a criminal court, with the power to impose criminal sanctions such as incarceration. This is not the case. The Board is a disciplinary body and the sanctions it can impose are labour relations sanctions. These sanctions apply solely to the police officer's status within the police force.

Police Complaints Board hearings are similar to other administrative or quasi-judicial proceedings. The Statutory Powers Procedure Act and the rules of natural justice apply and all hearings are open to the public.

Although there are similarities in procedure to other administrative tribunals, hearings under the Act are also unique in many ways. Since these hearings constitute the first time a civilian tribunal has been asked to adjudicate issues of police misconduct, the tribunal is sometimes presented with questions of law and procedure for which there are no precedents. One example is a case in which the subject officer resigned from the force before a Board hearing. Arguments were offered as to whether the Board should continue with the scheduled hearing. The Board in that case decided to continue, and the case is currently proceeding. The decision will be reported in the next Annual Report.

On another occasion, the complainant requested that the Board view the area of a police station that was relevant to his allegations of misconduct. The Board decided to take a view of the area, and did so with the cooperation of the officer in charge of the station.

On yet another occasion, the complainants were serving a sentence in a correctional institution in Guelph at the time of the hearing. After considering the convenience of all parties to the complaint, the Board decided to hold the first day of the hearing in the correctional institution. The decision in this hearing will also be reported in next year's Annual Report.

Eleven Board hearings were ordered between December 21, 1983 and December 20, 1984. Seven of these were ordered by the Public Complaints Commissioner and four were ordered by a Deputy Chief of Police. Six of these eleven hearings, all of which were before 3-person panels, were completed within the reporting year. In addition, two other hearings, ordered in the previous year, were completed in this reporting year.

In the eight hearings completed in this reporting year, four police officers were found guilty of misconduct. Disciplinary penalties imposed by the Board ranged from forfeiture of 3 days off to a 14 day suspension without pay.

B. BOARD DECISIONS

The following is a summary of the eight Board decisions.

1. Re Nicholls and Bobb - February 24, 1984.
(Panel: Barrett, Hong, Singh)

The complainant alleged an unlawful search.

The officer had obtained a search warrant under the Narcotic Control Act to search an apartment. The tenant of the apartment was a friend of the complainant. The officer and two other officers entered and searched the apartment, and found some marijuana on a visitor

in the apartment.

The complainant happened to come to visit the tenant approximately 15 minutes after the search had been commenced. He was unaware that a search was in progress when he knocked at the door. The tenant opened the door, and the officer pushed her out of the way and stepped out into the hallway to speak to the complainant. The complainant stated that the officer immediately started asking him his name and demanding to know what he was doing there, and simultaneously put his hands in the complainant's front jacket pockets.

The officer stated that he first identified himself as a police officer by showing the complainant his badge and told him that he was in the process of executing a search warrant. The officer stated that the complainant refused to give his name and protested that he knew his rights and he did not have to answer questions and that the officer was not entitled to search him. The officer agreed that he "patted down" the two front pockets of the complainant's jacket because he was suspicious when the complainant refused to identify himself and backed away.

After the search, the complainant was arrested for causing a disturbance by shouting and he was eventually found guilty of this offence. No marijuana was found on the complainant. The entire incident took place in the hallway immediately outside the apartment.

It was agreed by the officer that a search had taken place, and therefore the Board had only to consider whether a search conducted before an arrest was lawful in these circumstances.

Due to the wording of the Narcotic Control Act, the first question was whether the hallway outside the apartment could be considered a dwelling house. After reviewing the case law, the Board concluded that the hallway was part of the dwelling house. The next question was whether, according to the Narcotic Control Act, the officer needed to assess each individual found within a dwelling house in these circumstances as to whether there were reasonable and probable grounds for a search. Due to the wording of the Narcotic Control Act,

the Board concluded that reasonable and probable grounds were not needed in each individual case.

The next consideration was whether the prohibition in the Charter of Rights against unreasonable search was applicable. The Board concluded that the search was unreasonable, from the complainant's point of view. The complainant had simply knocked on the door to visit a friend, not suspecting what was going on inside the apartment. Within a minute of the police officer confronting him with questions, he had been searched, although all the time resisting the search and the questions.

However, the Board also stated that the search may well have appeared reasonable to the officer. He had just conducted a search in which he had found marijuana. He stated that he would not necessarily have searched the complainant unless he were suspicious for some reason. In this case, the officer stated that the grounds for his suspicion were that the complainant was not cooperative, would not supply his name, kept asserting his legal rights and started backing away.

The Board found that the search would not have given rise to the exclusion of evidence remedy under section 24(2) of the Charter of Rights and concluded that the officer was not guilty of misconduct.

2. Re Kellock and Anderson - June 18, 1984.
(Panel: Barrett, Jorgensen, Crothers)

Complainant alleged an assault by a police officer.

The complainant and a friend were attending the Canadian National Exhibition. They had paid for admission to the Exhibition, but were turned away at a pavilion where alcohol was being served because one of the young men did not have proof that he was of the legal drinking age. The two men then decided to go back to their car, get the identification and return. In the car park, they determined that they would probably not be allowed back into the grounds without paying another admission, and they decided to jump the fence to gain entry to the grounds. They did so, and were noticed by the officer who was on routine foot patrol. The officer started pursuing them. One of the young

men ran off at an angle and got away, but the officer caught up with the complainant.

The complainant alleged that he turned to face the officer to give himself up, but the officer started swinging at him repeatedly with his baton. The complainant stated that he was struck approximately three times, pushed onto a car, struck again with a baton and a fist, and thrown to the ground after he was handcuffed, at which time someone put a knee or foot on his back to restrain him on the ground.

The officer stated that, when he caught up with the complainant who had jumped the fence, the complainant tripped and fell. As the complainant was rising from the ground, he noted that his elbows and forearms were scraped. The officer stated that he then approached the complainant and told him to stop, whereupon the complainant swore at him and struck at him with his fist. The officer testified that he then took out his baton and began to twirl it in front of his body with a very rapid back and forth motion. He stated that he accidentally struck the complainant on his forearm, whereupon the complainant took another swing with his fist, attempting to strike at the officer's chest right in the path of the twirling baton. This time the officer intentionally struck the complainant with the baton on his left side. The complainant again attempted to strike the officer, and the officer struck him again on the upper left arm. The officer testified that the complainant was continuously struggling and yelling obscenities. The officer stated that he placed the complainant over the hood of a car, handcuffed him, and then placed him on the ground. He also stated that he may have put his foot on the complainant's back when he was on the ground. The officer called for help, and was joined by other officers with a paddy wagon.

Several civilians witnessed the incident. Their evidence contained some inconsistencies, but the Board noted that some inconsistency in details amongst several of the observers to a single event is consistent with human nature and with individual differences in memory, power of observation and acuity. All the witnesses had been excluded during the hearing so none were able to hear what the others had said prior to giving their evidence. However all witnesses described the complainant as taking a defensive

posture only and no aggressive action. All of his struggling was defensive and he was shouting for help from the spectators almost continuously. All of the witnesses also described an up and down striking motion with the baton. None corroborated the subject officer's description of a twirling motion with the baton followed by a horizontal striking from the shoulder.

The Board found the complainant to be a credible witness and that the essential points of his evidence were corroborated by independent civilian witnesses. The Board did not believe the officer's assertion that the complainant had struck him three times. This version was not corroborated by independent witnesses and was characterized by the Board as highly improbable.

The officer was found guilty of misconduct, and five days forfeiture of pay was imposed as a penalty.

3. Re Evans, Packer, Wills, Madeley and
Footman - August 24, 1984. (Panel:
O'Connor, Westaway, and McLennon)

The complainant alleged assault against three officers, in the course of an arrest. The complainant further alleged that two officers were uncivil in their language at the time of arrest and that an investigating officer did not inform him of his right to counsel before questioning him.

In regard to not advising of the right to counsel, the Board heard uncontradicted evidence that the complainant was informed of his right to counsel by another officer, prior to his involvement with the subject officer. Accordingly, the complaint was dismissed.

With respect to the incivility complaint, the Board found that police officers were repeatedly uncivil to civilians who had legitimate concerns about police actions at the scene. However, there was insufficient evidence of identification to establish which officers were involved, and the complaint was dismissed.

In regard to the assault allegations, the complainant alleged that he was beaten severely by the two officers who arrested him initially

and also assaulted by a third officer who later arrived at the scene. The complainant testified that he received a large number of blows to different parts of his body but medical evidence was inconsistent with this allegation. The complainant testified that the third officer assaulted him when he was already restrained by the two arresting officers.

The Board found that the third officer struck the complainant two or three times while he was so restrained on the ground. This officer was found guilty of misconduct and the Board imposed a disciplinary penalty of 12 days' forfeiture of pay. The assault allegation against the other two officers was dismissed.

4. Re Achilleous, Milnes and Stanwick - August 29, 1984. (Panel: O'Connor, Popowich, Jorgensen)

Complainant had made an allegation of assault against two officers. The case had come before the Board in March, but had been adjourned pending the end of the criminal trial of charges laid at the time of the complaint incident. Upon the reconvening of the complaint hearing, an application was made by counsel for the officers for the Board to dismiss the complaint. The application to dismiss was made on the basis that a plea bargain had been reached in the criminal charges. The plea bargain involved an Assistant Crown Attorney, the complainant, (the accused in the criminal matter) the complainant's counsel and counsel for the officers retained in respect of the complaint. Under the plea bargain, the Crown withdrew a charge of refusal to take a breathalyzer test and a charge of assaulting a police officer. The complainant pleaded guilty to an impaired driving charge and agreed to discontinue both a civil suit commenced against the police officers and the complaint.

In accordance with the plea bargain, the complainant requested that the complaint before the Board be withdrawn.

The Board first considered the general question; whether a plea bargain involving the dropping of a complaint should terminate that complaint. The Board concluded that as a general principle, the complaint should not be terminated simply because the complainant wishes

to withdraw it. The overall scheme of the Act contemplates more than the mere resolution of a dispute between two individuals, the complainant and the police officer. The public has an interest in the conduct of police officers and matters relating to their discipline. Once a complaint is made, public monies are expended to enquire into and investigate the complaint, and a public official is required to decide whether, in the public interest, a hearing is required. The process also ensures that a complainant who might be accused of an offence and subject to criminal prosecution has a forum free from undue pressure in which to pursue his or her complaint. It is in the public interest to treat proceedings before the Police Complaints Board as entirely separate matters from any criminal charges arising from the same incident.

In the circumstances of this case, however, a plea bargain had been made in good faith albeit on an incorrect assumption. Under the circumstances, and especially because this unique issue was raised for the first time, the Board found that it would be inappropriate to proceed with the hearing. Accordingly, the complaint was dismissed.

5. Re Brown and Smith - November 9, 1984.
(Panel: Sharma, Clements, Cole)

The complainant alleged assault in the course of an arrest.

Complainant and some friends were out to play basketball. When passing a dairy, the friends reached into a truck and removed some containers of milk and yogurt. The complainant put the containers in a bag which contained his gym clothes. The young men saw a police car approaching and began to run. The complainant was pursued for some time before he was caught by two police officers. The complainant alleged that an officer struck him in the groin before placing him in the police car.

The officer denied striking the complainant, and the officer in charge of the station to which the complainant was brought testified that no complaint had been made about an assault.

There were discrepancies in the evidence about the positions of the police vehicles involved, about whether or not persons apprehended were handcuffed and about whether any blow was struck. The only independent witness could not recall seeing the complainant being assaulted.

The Board concluded that the complaint had not been established beyond a reasonable doubt and dismissed the complaint.

6. Re Simms and Herrell - November 20, 1984.
(Panel: Grosman, Popowich, Levy)

Complaint against officer was dismissed by the Board when the complainant refused to appear to give evidence at the hearing.

The Board commented that the complainant's refusal to attend abused a resource made available to the public. The Board deplored the effect of this action, in placing a police officer under suspicion only to abandon the complaint at the last moment without notice.

As a result of this case, a policy change was made and since that time all complainants have been issued summonses to attend Board hearings.

7. Re Brody, Smollett, and Nguyen - November 22, 1984. (Panel: Makuch, Clements, Nusca)

Complainant alleged assault at a police station.

Complainant was arrested at a demonstration. He alleged that, after being brought to a police station, he was hit by one officer on the chest, back and shoulders, and was pushed into a wall. The complainant also alleged that he was struck in the face by a second officer. Medical evidence and photographs confirmed injuries consistent with the complainant's allegations.

The officers denied striking the complainant as alleged. They attributed any injuries to the complainant having been tackled in order to effect an arrest.

According to standard procedure, the complainant had been questioned and examined in a way that would reveal injuries upon being

taken to the police station. Both subject officers and the Sergeants in charge at the station testified that they saw no injuries when the complainant arrived at the station.

The Board concluded on the evidence that the injuries were not caused in the course of the arrest. The Board also accepted that there were no visible injuries at the time the complainant was received at the police station. However, there was clear evidence of visible injuries when the complainant left the police station. Accordingly, the officers were found guilty of misconduct.

One officer was suspended without pay for 14 days and the other officer was ordered to forfeit three days off.

8. Re Davies, Pawlowski, Jolly and Footman -
December 14. (Panel: Makuch, Rumball,
Santos)

Complaint that officers did not forward names of witnesses to complainant despite request to do so.

Witnesses to an arrest requested an officer at the scene to forward their names to the arrested person, who was assaulted by a police officer (the police officer was subsequently found guilty of the assault and forfeited 12 days' pay). One of the witnesses also telephoned the police station and asked a Sergeant to forward their names to the arrested person. The Sergeant discussed the matter with his Staff Sergeant and they decided not to forward the names, nor did the officer at the scene.

The issue before the Board was whether the failure to forward names in these circumstances amounted to misconduct. The Board stated that the conduct of the officers should be judged against a standard of reasonableness as opposed to any standard of an absolute duty to forward names of witnesses. The Board considered that in this case there was no reason to fear for the safety of the witnesses or the victim as can be the situation in disclosing Crown evidence in a criminal case. There was also no concern about prejudicing the presentation of Crown evidence or of breach of confidentiality. The Board also

pointed out that there was no particular difficulty in passing on the names of the witnesses.

The Board also noted, however, that while the police force has standing orders in respect of non-disclosure of Crown evidence, it has not developed a rule respecting disclosure or facilitating the provision of information to potential complainants. The officers had also had no actual warning or knowledge that their conduct in this matter could be viewed as misconduct.

In conclusion, the Board noted that officers must act reasonably, taking into account such matters as the burden on them in complying, the importance of passing on the information, alternative measures of having information passed on, the need to protect witnesses, and the existence of administrative or internal rules or orders. The Board urged the Chief of Police to consider new orders or procedures to deal with this issue. Although the Board found that the conduct of the officers should be viewed as misconduct because they did not act reasonably, there was a need for a warning that such actions would be regarded as misconduct. Therefore no finding of misconduct was made and the complaint was dismissed.

C. RESULT OF APPEAL

In the Second Annual Report, it was noted that the decision of the Board in Re Noble and McKay was being appealed to the Supreme Court of Ontario. The officer appealed the finding of misconduct, and the complainant appealed the penalty, which was a 14 day suspension without pay.

On April 29, 1985, the appeals were heard. The Supreme Court dismissed both appeals, confirming the original decision of the Police Complaints Board.

APPENDIX

APPENDIX

Bill 140

4TH SESSION, 32ND LEGISLATURE, ONTARIO

33 ELIZABETH II, 1984

Bill 140

*(Chapter 63
Statutes of Ontario, 1984)*

**An Act to revise the Metropolitan Police Force
Complaints Project Act, 1981**

The Hon. R. McMurtry
Attorney General

<i>1st Reading</i>	November 13th, 1984
<i>2nd Reading</i>	December 7th, 1984
<i>3rd Reading</i>	December 14th, 1984
<i>Royal Assent</i>	December 14th, 1984

Bill 140

1984

**An Act to revise the Metropolitan Police Force
Complaints Project Act, 1981**

HER MAJESTY, by and with the advice and consent of the
Legislative Assembly of the Province of Ontario, enacts as
follows:

1. In this Act,

Interpretation

- (a) "Bureau" means the Public Complaints Investigation Bureau;
- (b) "chief of police" means the chief of police of the Metropolitan Police Force;
- (c) "Commissioner" means the Public Complaints Commissioner appointed under this Act;
- (d) "complainant" means a member of the public who makes a complaint in accordance with the provisions of this Act;
- (e) "complaint" means an allegation or allegations, made orally or in writing, by a member of the public, concerning the misconduct of a police officer;
- (f) "inquiry" means an allegation or allegations concerning conduct of a police officer that does not amount to "misconduct";
- (g) "misconduct" means an act or omission on the part of a police officer that constitutes an offence under the Code of Offences set out in the Schedule to Regulation 791 of the Revised Regulations of Ontario, 1980, made under the *Police Act*;
- (h) "officer in charge" means the police officer who at any particular time, while on duty, is in charge of and responsible for, the proper functioning of a police facility;

R.S.O. 1980,
c. 381

- (i) "police officer" means a police officer on the Metropolitan Police Force;
- (j) "prescribed" means prescribed by the regulations;
- (k) "regulations" means the regulations made under this Act;
- (l) "subject officer" means a police officer who is the subject of a complaint.

Application
of Act

2. This Act applies to complaints and inquiries made by members of the public respecting the conduct of police officers on the Metropolitan Police Force and hearings under this Act and disciplinary proceedings under the *Police Act* and the regulations thereunder arising out of such complaints.

R.S.O. 1980,
c. 381

Appointment
of Public
Complaints
Commissioner

3.—(1) The Lieutenant Governor in Council shall appoint a Public Complaints Commissioner, to hold office for a term not exceeding five years, to exercise the powers and perform the duties assigned to him by this Act and the regulations.

Re-
appointment

(2) The Commissioner may be reappointed for a further term or terms not exceeding, in each instance, five years.

Officers,
etc.

(3) Such officers and employees as are considered necessary from time to time for the purposes of this Act may be appointed under the *Public Service Act*.

R.S.O. 1980,
c. 418

Remuneration

(4) The Commissioner shall be paid such remuneration and allowance for expenses as may be fixed by the Lieutenant Governor in Council.

Records

(5) The Commissioner shall maintain copies of all records, reports and other materials received by him under this Act.

Monitoring
handling of
complaints
and inquiries

(6) The Commissioner shall monitor the handling of complaints and inquiries by the Bureau and the chief of police.

Annual
report

(7) The Commissioner shall report annually on the affairs of his office to the Solicitor General and to the Attorney General and the Attorney General shall submit the report to the Lieutenant Governor in Council and shall then lay the report before the Assembly if it is in session or, if not, at the next ensuing session.

Summary of
decisions

(8) The Commissioner shall cause to be prepared and published periodically a summary of the decisions, and the reasons therefor, made by the boards of inquiry under this Act.

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(9) The accounts of the Commissioner shall be audited annually by the Provincial Auditor.

Audit

4.—(1) The Lieutenant Governor in Council shall appoint a panel of persons to act as members of boards of inquiry.

Panel for boards of inquiry

(2) One-third of the members of the panel shall be persons who are members of the Law Society of Upper Canada who are jointly recommended for appointment by the Attorney General and the Solicitor General.

Recommendations for appointment

(3) One-third of the members of the panel shall be persons, other than police officers, the appointment of whom the Metropolitan Board of Commissioners of Police and the Metropolitan Toronto Police Association have jointly recommended in writing to the Attorney General.

Idem

(4) One-third of the members of the panel shall be persons recommended by the council of The Municipality of Metropolitan Toronto to the Attorney General for appointment.

Idem

(5) Appointments to the panel shall be for a term of two years and a person who is appointed may be reappointed for a further term or terms not exceeding, in each instance, two years.

Term

(6) Recommendations made under subsections (3) and (4) shall be submitted to the Attorney General within such time as he may specify.

Idem

(7) Notwithstanding subsection 34 (1), the members of the Police Complaints Board, except the chairman, constituted under the *Metropolitan Police Force Complaints Project Act, 1981* shall act as members of boards of inquiry under this Act until such time as the panel referred to in subsection (1) is appointed and members of the Police Complaints Board appointed from the groups set out in subsections 4 (4), (5) and (6), respectively, of the *Metropolitan Police Force Complaints Project Act, 1981* shall be deemed to be recommended under subsections (2), (3) and (4) of this section, respectively.

Members of Police Complaints Board under 1981, c. 43

1981, c. 43

(8) The members of the panel shall be paid such remuneration and expenses as may be fixed by the Lieutenant Governor in Council.

Remuneration

5.—(1) The chief of police shall establish and maintain for the purposes of this Act a branch of the Metropolitan Police Force to be known as the Public Complaints Investigation Bureau.

Establishment of Bureau

4	Bill 140	POLICE FORCE COMPLAINTS	1984
Staff	(2) The chief of police shall ensure that the Bureau is supplied with sufficient staff to effectively receive, record and investigate complaints and inquiries.		
Where complaints may be made	6.—(1) A member of the public may make a complaint at the Bureau, at any police station in Metropolitan Toronto or at the office of the Commissioner.		
Information	(2) The person who receives the complaint shall record the complaint in the prescribed form and shall furnish the complainant with a prescribed statement that sets out the procedures that will be followed respecting the complaint and the rights under this Act of the complainant, together with a copy of the complaint.		
Preliminary investigation	(3) Where a complaint is recorded at a police station, the officer in charge of the station shall take all reasonable steps to ensure that all available evidence is gathered that may be lost if not secured immediately and, if appropriate, ensure that such other preliminary investigation as may be warranted is conducted and that a report concerning such preliminary investigation is prepared and forwarded to the person in charge of the Bureau.		
Copy of complaint	(4) Where a complaint is recorded at a police station, the person recording the complaint shall forward forthwith to the Bureau and to the Commissioner a copy of the complaint.		
Idem	(5) Where a complaint is recorded at the Bureau, the person recording the complaint shall forward forthwith to the Commissioner a copy of the complaint.		
Idem	(6) Where a complaint is recorded at the office of the Commissioner, the person recording the complaint shall forward forthwith to the Bureau a copy of the complaint.		
Notification by Commissioner	7.—(1) Where a complaint is made by a person not directly affected by the incident, the Commissioner, as soon as practicable after receiving the complaint, shall in writing notify the person directly affected by the incident that a complaint has been made under this Act and advise him that he is entitled to be the complainant.		
Where no action to be taken	(2) Where the person directly affected by the incident is not known or can not be found or does not, within thirty days of the date of the notification, file with the Commissioner a written request to be the complainant in the matter, no further action shall be taken under this Act in respect of such complaint.		

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(3) Nothing in subsection (2) shall prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder, and the chief of police shall notify the Commissioner if any such action is taken and the result thereof and either the chief of police or the Commissioner shall then notify the complainant.

Action under
R.S.O. 1980,
c. 381

(4) For the purposes of this section a person who observes an incident shall be deemed to be a person directly affected by the incident.

Person
deemed
directly
affected

8.—(1) Upon receipt of a complaint, the person in charge of the Bureau may, with the consent of the Commissioner, reclassify any of the separate allegations within the complaint as an inquiry, and the complainant and the subject officer shall be notified forthwith.

Reclassifi-
cation
by Bureau
chief

(2) The person in charge of the Bureau shall determine whether any investigation is required in respect of an inquiry, and if it is, cause such investigation to be conducted, respond to the complainant in writing within sixty days of receipt of the complaint and forward a copy of the response to the Commissioner forthwith.

Response

(3) The person in charge of the Bureau may, during the course of an investigation under subsection (2), reclassify any of the separate allegations within the inquiry as a complaint, and the complainant, the subject officer and the Commissioner shall be notified forthwith.

Reclassifi-
cation
during
investigation

(4) No reference shall be made in the personal record of any police officer to an inquiry resolved in accordance with subsection (2).

Personal
record

9. The person in charge of the Bureau shall inform forthwith the subject officer of the substance of the complaint in the prescribed form, unless, in the opinion of such person, to do so might adversely affect any investigation of the complaint.

Police officer
to be
informed

10.—(1) The person in charge of the Bureau shall consider whether a complaint can be resolved informally and, with the consent of the complainant and the subject officer, may attempt to so resolve the complaint.

Informal
resolution

(2) Where a complaint is resolved informally, a record shall be made of the manner in which the complaint was resolved and the complainant and the subject officer shall each signify in writing his agreement to such resolution.

Record of
informal
resolution

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Copy of
record to be
furnished

(3) A copy of a record made under subsection (2) shall be furnished forthwith to the Commissioner, the complainant and the subject officer.

Informal
resolution

(4) A complaint may be resolved informally by the person in charge of the Bureau in accordance with the procedures in this section at any time during the course of or after an investigation.

Where
complaint
to continue

(5) Notwithstanding subsection (1), where the Commissioner is of the opinion that the informal resolution was obtained as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue and give reasons therefor in writing to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act.

Review of
decision

R.S.O. 1980,
c. 224

(6) The decision of the Commissioner under subsection (5) shall be deemed to be made in the exercise of a statutory power of decision within the meaning of the *Judicial Review Procedure Act*.

Informal
resolution by
Commissioner

(7) A complaint may be resolved informally by the Commissioner in accordance with the procedures in this section at any time during the course of an investigation or review by the Commissioner.

No reference
in personal
record of
subject
officer

(8) No reference shall be made in the personal record of a subject officer to a complaint resolved under this section, except where misconduct has been admitted by the subject officer.

Investigation

11.—(1) Where a complaint is not resolved informally, the person in charge of the Bureau shall cause an investigation to be made forthwith into the complaint in accordance with prescribed procedures.

Interim
reports

(2) The person in charge of the Bureau shall forward to the Commissioner, the complainant and the subject officer an interim report in the prescribed form providing a summary of the investigation to date not later than thirty days after receipt of the complaint and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation.

Exception

(3) Notwithstanding subsection (2), the person in charge of the Bureau may decide not to make a report to the complainant or the subject officer where, in his opinion, to do so might

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adversely affect the investigation of the complaint or where there are no new matters to report, in which case the person in charge of the Bureau shall forthwith notify the Commissioner of the reasons for his decision.

(4) Where an investigation has been completed, the person in charge of the Bureau shall cause a final investigation report in the prescribed form to be prepared and shall forward a copy thereof to the Commissioner, the chief of police, the complainant and the subject officer. Final report

(5) A final investigation report prepared under subsection (4) shall, Idem

(a) contain a summary of the complaint and a description of the alleged misconduct by the subject officer;

(b) contain a summary of the investigation and of information obtained from the complainant, the subject officer and witnesses, if any; and

(c) contain a description and analysis of any physical evidence obtained.

(6) The Commissioner may, upon receipt of a final investigation report, request that the chief of police cause further investigation to be made into the complaint and the results of any such investigation shall be forwarded to the Commissioner. Further investigation at request of Commissioner

12.—(1) All complaints and inquiries shall be dealt with in accordance with this Act, and shall not be withdrawn except in accordance with this Act. Withdrawal of complaint

(2) A complainant may withdraw a complaint at any time by giving notice, in the prescribed form, to the person in charge of the Bureau, who shall forward a copy thereof to the Commissioner and the subject officer. Notice

(3) Notwithstanding subsection (2), where the Commissioner is of the opinion that the complainant withdrew the complaint as a result of a misunderstanding, a threat or other improper pressure, the Commissioner may notify the person in charge of the Bureau that the complaint shall continue, and give reasons therefor, in writing, to the person in charge of the Bureau, the subject officer, the complainant and the chief of police and in such event the complaint shall continue to be treated as a complaint under this Act. Where to continue as complaint

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Review of
decision
R.S.O. 1980,
c. 224

(4) The decision of the Commissioner to cause the complaint to continue shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Disciplinary
action under
R.S.O. 1980,
c. 381

(5) Notwithstanding subsection (2), where a complaint has been withdrawn by a complainant, such withdrawal shall not prevent the chief of police from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder and the chief of police shall notify the Commissioner if any such action is taken and the result thereof.

Where
complaint
not to be
dealt with

13.—(1) Where it appears to the chief of police that,

- (a) a complaint is frivolous, vexatious or made in bad faith;
- (b) a complaint is not within the jurisdiction of this Act; or
- (c) a complaint is one that could or should be more appropriately dealt with under an Act other than this Act,

the chief of police may decide that the complaint or any part thereof not be dealt with under this Act.

Notice

(2) The chief of police shall notify the Commissioner, the complainant and the subject officer of any decision made under subsection (1).

Disciplinary
action under
R.S.O. 1980,
c. 381

(3) Notwithstanding subsection (1), the decision of the chief of police shall not prevent the chief from taking any disciplinary action that he could otherwise take under the *Police Act* and the regulations thereunder.

Review by
Commis-
sioner

(4) The complainant may, within thirty days of receiving notification under subsection (2), request the Commissioner to review the decision made under subsection (1), in which case all the provisions of this Act relating to a review by the Commissioner apply with necessary modifications.

Extension
of time

(5) Notwithstanding subsection (4), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Powers and
duties of
chief of
police

14.—(1) The chief of police shall review a final investigation report and he may order such further investigation as he

considers advisable and may, unless he decides that no action is warranted,

- (a) cause an information alleging the commission of an offence by the subject officer to be laid and refer the matter to the Crown attorney for prosecution;
- (b) order that one or more of the allegations contained in the complaint be heard by a board of inquiry;
- (c) cause disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder; and
- (d) after giving the subject officer ten working days to reply, either orally or in writing, to the complaint, counsel or caution the subject officer regarding his conduct,

but where the chief of police takes action under clause (b), (c) or (d), he shall not take action under any other of those clauses.

(2) Where the chief of police causes an information to be laid under clause (1) (a), such action shall not stay any disciplinary proceedings under the *Police Act* or any hearing by a board of inquiry unless the presiding officer or the board, as the case may be, is of the opinion that the hearing should be stayed until the court proceedings have been concluded.

Hearing
not stayed
R.S.O. 1980,
c. 381

(3) A subject officer may within thirty days of the taking of any action under clause (1) (d), request the Commissioner to review the action, in which case all the provisions of this Act relating to a review by the Commissioner shall apply with necessary modifications.

Review by
Commis-
sioner

(4) Notwithstanding subsection (3), where the Commissioner is satisfied that there are reasonable grounds for granting an extension, the Commissioner may extend the time for requesting a review.

Extension
of time

(5) Any action taken under clause (1) (d) shall be expunged from the personal record of the subject officer upon the expiration of a period of two years during which no other disciplinary action has been noted on the record.

Expunging
from
personal
record

(6) The chief of police shall give forthwith written notice of any action taken by him under subsection (1) or of his decision that no action is warranted to the Commissioner, the complainant and the subject officer and, where his decision is that no action is warranted or he has taken action under

Notice of
action taken

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clause (1) (d), the chief of police shall give his reasons therefor.

Designation
by chief
of police

(7) The chief of police may designate any police officer of the rank of inspector or higher to exercise any of his powers and perform any of his duties under this Act and the police officer so designated has the powers and duties set out in the designation and where any power is conditional on the opinion of the chief of police, the requisite opinion shall be that of the police officer so designated.

Application
of s. 23
R.S.O. 1980,
c. 381

15.—(1) Where the chief of police has caused disciplinary proceedings to be taken under the *Police Act* and the regulations thereunder, subsections 23 (6), (8), (13), (14) and (15) of this Act apply with necessary modifications to a hearing held in connection with such proceedings.

Notice of
decision

(2) The chief of police or, if he is not the person who holds a hearing referred to in subsection (1), the person who holds the hearing shall give forthwith written notice of his decision together with his reasons therefor to the Commissioner, the complainant and the subject officer.

Police officer
may appeal

R.S.O. 1980,
c. 381

16. Where a hearing referred to in subsection 15 (1) has been held and a penalty has been imposed upon a subject officer, the officer may appeal in accordance with the provisions of this Act and not as provided in the *Police Act* and the regulations thereunder.

Notice of
appeal

17.—(1) A notice of appeal under section 16 shall be served on the Commissioner and the chief of police within fifteen days after the subject officer receives notice of the penalty imposed, and the Commissioner shall notify the complainant forthwith.

Extension
of time

(2) Where a notice of appeal is filed after the time set out in subsection (1), the Commissioner shall assign, in accordance with the regulations, the matter to a member of the panel appointed on a recommendation made under subsection 4 (2) who may, if satisfied that there are reasonable grounds for doing so, extend the time for appealing and give such directions as he considers proper consequent upon the extension.

Commis-
sioner
may
investigate

18.—(1) Notwithstanding any other provision of this Act, the Commissioner may investigate the allegations in the complaint,

- (a) at any time after he receives the first interim report under subsection 11 (2) or the thirty-day period mentioned therein has expired;
- (b) upon the request of the chief of police; or
- (c) where he has reasonable grounds to believe that there has been undue delay or other exceptional circumstances in the conduct of an investigation under section 11.

(2) A decision to take action under clause (1) (c) shall be deemed to be made in the exercise of a statutory power within the meaning of the *Judicial Review Procedure Act*.

Review of
decision

R.S.O. 1980,
c. 224

(3) The Commissioner shall forthwith notify the chief of police in writing of his intention to conduct an investigation under clause (1) (a) or (c) and shall give his reasons therefor in writing.

Notice
to chief
of police

(4) Where the Commissioner conducts an investigation under subsection (1), he shall forward to the complainant, the subject officer, the person in charge of the Bureau and the chief of police an interim report in the prescribed form providing a summary of the investigation to date, not later than thirty days after he has given notification of his intention to conduct an investigation, and shall forward further interim reports to the same persons on a monthly basis during the course of the investigation, and upon the completion of his investigation he shall prepare a final investigation report and forward a copy thereof to the same persons.

Idem

(5) The chief of police, upon receipt of a final investigation report under subsection (4), shall review the report, together with any final investigation report prepared under subsection 11 (4), and shall make a decision in accordance with section 14 and shall notify all persons in accordance with subsection 14 (6).

Notice of
action taken

(6) The Commissioner may designate any person appointed under subsection 3 (3) to exercise any of his powers and perform any of his duties under this Act, and the person so designated has the powers and the duties set out in the designation, and where any power is conditional upon the opinion of the Commissioner, the requisite opinion shall be that of the designated person.

Delegation

19.—(1) Where a complainant is dissatisfied with the decision made on a disciplinary proceeding arising out of his complaint that is not a decision of a board of inquiry or with

Request
for review

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action taken by the chief of police under clause 14 (1) (d) or with a decision of the chief of police that no action is warranted, he may within thirty days of receipt of notification under subsection 14 (6) or 15 (2) request the Commissioner to review the matter.

Extension
of time

(2) Notwithstanding subsection (1), where the Commissioner is satisfied that there are reasonable grounds for granting an extension the Commissioner may extend the time for requesting a review.

Hearing may
be ordered

(3) Where the Commissioner receives a request under subsection (1), he shall review the matter and may, after such review, order a hearing by a board of inquiry if he believes that, in the public interest, such a hearing is required or he may decide to take no further action.

Notice

(4) The Commissioner shall give forthwith written notice to the chief of police, the complainant and the subject officer of his decision under subsection (3) and, where his decision is to take no further action, shall give his reasons therefor.

Where
appeal under
s. 16

(5) Where a subject officer has appealed under section 16 a hearing ordered under subsection (3) shall be heard together with that appeal.

Powers on
investigation
or review

20.—(1) For the purposes of an investigation under section 18 or a review under section 19, the Commissioner may, where he has reasonable grounds to believe that it is necessary to do so in furtherance of the investigation or review, after informing the chief of police, enter a police station and examine therein books, papers, documents and things related to the complaint.

Powers on
inquiry

R.S.O. 1980,
c. 411

(2) For the purposes of an investigation or review, the Commissioner has the powers of a commission under Part II of the *Public Inquiries Act*, which Part applies to such investigation or review as if it were an inquiry under that Act.

Appointment
of person
to make
investigation
or review

(3) The Commissioner may, in writing, appoint a person to make any investigation or review he is authorized to make and the person so appointed has all the powers and duties of the Commissioner relating to the investigation and the review.

Identification

(4) The Commissioner shall issue a certificate of appointment to any person appointed to make an investigation or review under subsection (3), which certificate shall contain a photograph of the person appointed, and the person appointed, while exercising any powers or performing any duties in

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respect of the investigation or review, shall produce the certificate of appointment upon request.

(5) The person appointed to make an investigation or review shall report the results of his investigation or review to the Commissioner. Report

(6) No person shall obstruct the Commissioner or a person appointed by him to make an investigation or review or withhold from him or conceal or destroy any books, papers, documents or things related to the investigation or review. Obstruction

(7) Where a justice of the peace is satisfied upon an *ex parte* application by the Commissioner or by a person appointed by him under subsection (3) that there is reasonable ground for believing there are in any building, dwelling, receptacle or place any books, papers, documents or things relating to an investigation or review, the justice of the peace may issue an order authorizing the person making the application, together with such persons as he calls upon to assist him, to enter and search, if necessary by force, such building, dwelling, receptacle or place for such books, papers, documents or things and to examine them, but every such entry and search shall be made between 6 a.m. and 9 p.m., standard time, unless the justice of the peace, by the order, otherwise authorizes. Search warrant

(8) The Commissioner may, upon giving a receipt therefor, remove any books, papers, documents or things examined under subsection (1) or (7) relating to the investigation or review and shall with reasonable dispatch cause to be made copies of such books, papers or documents and return them promptly thereafter to the person from whom they were removed. Removal of books, etc.

(9) Any copy made as provided in subsection (8) and certified to be a true copy by the Commissioner is admissible in evidence in any action, proceeding or prosecution as *prima facie* proof of the original book, paper or document and its contents. Admissibility of copies

(10) The Commissioner may appoint an expert to examine books, papers, documents or things examined under subsection (1) or (7). Appointment of experts

21.—(1) Where, after making a review, the Commissioner is of the opinion that a police practice or procedure should be altered, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association. Report

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Idem

(2) Where, as a result of any matter dealt with under this Act, the Commissioner is of the opinion that a practice or procedure or law affecting the resolution or prevention of public complaints should be altered or implemented, he shall report his opinion and recommendations to the Metropolitan Board of Commissioners of Police, the chief of police and the Metropolitan Toronto Police Association.

Idem

(3) Within ninety days of receiving a report under subsection (1) or (2), the Metropolitan Board of Commissioners of Police shall forward such report along with their comments and any comments submitted to them by the chief of police or the Metropolitan Toronto Police Association, to the Attorney General, the Solicitor General and the Commissioner.

Where board
of inquiry to
be
constituted

22.—(1) Where,

- (a) the chief of police has ordered that a matter be heard by a board of inquiry;
- (b) a police officer has appealed under section 16; or
- (c) the Commissioner has, under subsection 19 (3), ordered a hearing,

a board of inquiry shall be constituted in accordance with this section.

Assignment
to board
of inquiry

(2) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a minor nature, he shall assign, in accordance with the regulations, a member of the panel who was appointed on a recommendation made under subsection 4 (2) to sit alone to conduct the hearing.

Idem

(3) Where, in the opinion of the Commissioner, the hearing involves misconduct by a subject officer that is of a serious nature, he shall assign, in accordance with the regulations, three members of the panel to conduct the hearing.

Constitution
of board
R.S.O. 1980,
c. 381

(4) Where, following a disciplinary hearing under the *Police Act* a board of inquiry is to be constituted, the board shall be constituted in accordance with subsection (3).

Who shall be
on board

(5) The chairman of a board of inquiry constituted under subsection (3) or (4) shall be a person appointed to the panel on a recommendation made under subsection 4 (2), one member shall be a person appointed to the panel on a recommendation made under subsection 4 (3) and one member shall be

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a person appointed to the panel on a recommendation made under subsection 4 (4).

(6) The chief of police, where he has ordered a hearing, and the Commissioner, where he has ordered a hearing, shall provide the parties with a concise statement of the allegations of misconduct to be heard by the board.

Statement
of alleged
misconduct

(7) Where, following a hearing referred to in subsection 15 (1), a board of inquiry has been constituted, the chief of police shall forward the record of that hearing, including the transcript, all documents, evidence and exhibits considered at that hearing, to the board.

Record

(8) Where the Commissioner has ordered the hearing he shall pay the costs of preparing the record.

Costs of
record

23.—(1) The hearing before the board of inquiry shall be *de novo*, except where the chief of police has prepared a record under subsection 22 (7), in which case the hearing shall be on the record but the board may, in special circumstances, hear such evidence as the board considers advisable.

When
hearing
de novo and
when on
record

(2) The parties to a hearing shall include,

Parties

(a) the chief of police, in respect of appeals instituted by the subject officer under section 16; and

(b) the Attorney General, except where an appeal has been instituted by the subject officer under section 16.

(3) A party may be added by the board at any stage of the hearing upon such terms as the board considers proper.

Adding
parties

(4) The Attorney General, where he is a party to the hearing, has carriage of the matter.

Attorney
General to
have carriage

(5) The board shall appoint a time for a hearing and give written notice thereof to the parties.

Notice of
hearing

(6) The subject officer and the complainant shall be afforded an opportunity to examine before the hearing any physical or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Opportunity
to examine
evidence

(7) The board conducting a hearing shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representa-

Board not
to
communicate
with party

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tive except upon notice to and opportunity for all parties to participate, but the board may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Oral
evidence

(8) The oral evidence given at the hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Adjournment
for view

(9) The board may, where it appears to be in the interests of justice, direct that the board and the parties and their counsel or representatives shall have a view of any place or thing, and may adjourn the hearing for that purpose.

Only
members at
hearing to
participate
in decision

(10) No member of the board shall participate in a decision following the hearing unless he was present throughout the hearing and heard the evidence and argument of the parties and, except with the consent of the parties, no decision shall be given unless all members so present participate in the decision.

Decision

(11) A decision of a member of a board of inquiry sitting alone and a decision of a majority of the members of a board comprising three members is a decision of the board.

Release of
documents

(12) Documents and things put in evidence at the hearing shall, upon the request of the person who produced them, be released to him within a reasonable time after the matter in issue has been finally determined.

Police
officer not
required to
give
evidence
R.S.O. 1980,
c. 484

(13) Notwithstanding section 12 of the *Statutory Powers Procedure Act*, the subject officer shall not be required to give evidence at the hearing nor shall any statement or answer required to be given by him in respect of the complaint made against him be admitted in evidence at the hearing, except with his consent.

Statement or
admission not
admissible
in evidence

(14) Where the person in charge of the Bureau or the Commissioner attempts to resolve a complaint informally and the complaint is not so resolved, any statement or admission made during such attempt by the subject officer or by the complainant shall not be admitted in evidence at the hearing, except with the consent of the subject officer or the complainant, as the case may be.

Proof of
misconduct

(15) No finding of misconduct by the subject officer shall be made unless the misconduct is proved beyond a reasonable doubt.

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(16) Where a board constituted under subsection 22 (2) finds the subject officer guilty of misconduct, it may, Imposition of penalty

- (a) direct that days off not exceeding five days be forfeited;
- (b) direct that pay not exceeding three days pay be forfeited; or
- (c) reprimand the police officer.

(17) Where a board constituted under subsection 22 (3) finds the subject officer guilty of misconduct, it may, Idem

- (a) dismiss the police officer from the Metropolitan Police Force, whereupon the officer is thereby dismissed;
- (b) direct that the police officer resign from the Metropolitan Police Force and, in default of resigning within seven days, be summarily dismissed;
- (c) reduce the police officer in rank or gradation of rank and in pay in accordance with the rank to which he is reduced;
- (d) direct that days off not exceeding twenty days be forfeited;
- (e) direct that pay not exceeding five days pay be forfeited; or
- (f) reprimand the police officer, which reprimand may be in lieu of or in addition to any other penalty imposed.

(18) The board shall give forthwith written notice of its decision and the reasons therefor to the chief of police, the complainant, the subject officer, the Commissioner, the Solicitor General and the Attorney General. Notice of decision

(19) No reference to a hearing conducted by the board shall be made in the personal record of the subject officer unless the board has made a finding of misconduct. No reference to hearing

(20) The Metropolitan Board of Commissioners of Police may, in such cases and to such extent as it thinks fit, pay any legal costs incurred by a subject officer in respect of a hearing conducted by a board and an appeal under section 24. Costs may be paid

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Appeal

24.—(1) A party to a hearing by a board may appeal within thirty days of the decision of the board to the Divisional Court.

Solicitor General and Attorney General entitled to be heard

(2) The Solicitor General, and the Attorney General where he is not entitled to appeal under subsection (1), are entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

What may be appealed

(3) An appeal under this section may be made on a question that is not a question of fact alone or from a penalty imposed under subsection 23 (17), or on both the question and the penalty.

How notice, etc., may be served

25. Any notice, report or other material required to be given, furnished, forwarded or otherwise served under this Act is sufficiently served if delivered personally or sent by prepaid first class mail addressed to the person on whom service is required to be made at his last known or usual place of abode.

Matters confidential

26.—(1) Every person engaged in the administration of this Act and the regulations, including a member of the Metropolitan Police Force, shall preserve secrecy in respect of all matters that come to his knowledge in the course of his duties and shall not communicate any such matter to any other person except,

R.S.O. 1980, c. 381

- (a) as may be required in connection with the administration of this Act and the regulations or the *Police Act* and the regulations thereunder;
- (b) as may be required for the due enforcement of the law;
- (c) to his counsel; or
- (d) with the consent of the person to whom the matter relates.

Testimony

(2) No person to whom subsection (1) applies shall be required to give testimony in any civil suit or proceeding with regard to information obtained by him in the course of his duties, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

What is inadmissible in evidence

(3) No record, report, writing or document arising out of a complaint is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a

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disciplinary proceeding under the *Police Act* and the regulations thereunder.

(4) No oral statement, answer or admission referred to in subsections 23 (13) and (14) is admissible or may be used in evidence in any civil suit or proceeding, except at a hearing under this Act or in a disciplinary proceeding under the *Police Act* and the regulations thereunder.

Idem

R.S.O. 1980.
c. 381

27. Section 146 of the *Courts of Justice Act, 1984* (photography at court hearing) applies with necessary modifications to a board hearing.

Application
of 1984,
c. 11, s. 146

28. The *Ombudsman Act* does not apply to anything done under this Act.

R.S.O. 1980.
c. 325 does
not apply

29. The Attorney General, with the approval of the Lieutenant Governor in Council, and The Municipality of Metropolitan Toronto may enter into an agreement to provide for the payment by the municipality to the Treasurer of Ontario on such terms and conditions as may be agreed upon of contributions in respect of the moneys required for the purposes of this Act.

Agreement
for
contributions

30. Any person who contravenes subsection 20 (6), subsection 26 (1) or section 27 is guilty of an offence and on conviction is liable to a fine of not more than \$2,000.

Offence

31. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) respecting the reporting and publication of decisions of boards of inquiry;
- (b) assigning duties to the Commissioner;
- (c) establishing a system that provides for the assignment of panel members on a rotational basis;
- (d) prescribing forms and providing for their use; and
- (e) prescribing any matter that by this Act is required to be or is referred to as prescribed.

32.—(1) There shall be a committee composed of,

Advisory
committee

- (a) the Deputy Attorney General;
- (b) the Deputy Solicitor General;

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- (c) the chairman of the Ontario Police Commission;
- (d) the Commissioner;
- (e) the Assistant Deputy Attorney General-Criminal Law; and
- (f) such other persons as may be jointly appointed by the Attorney General and the Solicitor General.

Duties

- (2) It is the duty of the committee,
 - (a) to maintain under review the practice and procedures under this Act;
 - (b) to receive and consider matters brought to the attention of the committee by any person having an interest in the operation of the system for handling complaints under this Act;
 - (c) to make such recommendations as the committee considers appropriate for the improvement of the system for handling complaints; and
 - (d) to perform such other duties or functions as the committee may be requested to perform by the Attorney General or the Solicitor General.

Recommendations

- (3) Any recommendations made under clause (2) (c) shall be forwarded by the committee to both the Attorney General and the Solicitor General.

Recommendation of Attorney General

33. On or before the day that is three years after the day this Act comes into force, the Attorney General shall, after having reviewed the operation of the panel, the Board and the advisory committee referred to in sections 4 and 32 respectively, recommend to the Lieutenant Governor in Council whether those bodies should continue in existence or be terminated.

Repeal

34.—(1) The *Metropolitan Police Force Complaints Project Act, 1981*, being chapter 43, is repealed.

Proceedings continued under 1981, c. 43

(2) Notwithstanding subsection (1), the *Metropolitan Police Force Complaints Project Act, 1981* shall continue in force and apply to a complaint that is made before the day this Act comes into force, for the purpose of continuing the proceedings in respect of that complaint, but the proceedings at any Board hearing commenced after the day this Act comes into force shall be in accordance with the provisions of this Act.

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35. This Act comes into force on the 21st day of December, 1984. Commence-
ment

36. The short title of this Act is the *Metropolitan Toronto Police Force Complaints Act, 1984*. Short title

